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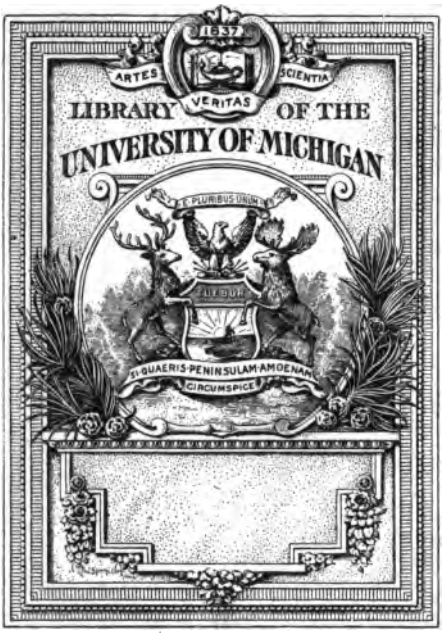

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Commonwealth of Pennsylvania

VETOES

BY THE GOVERNOR, OF BILLS PASSED BY THE LEGISLATURE, SESSION OF 1905.

WM. STANLEY RAY,
STATE PRINTER OF PENNSYLVANIA,
1905.

VIRTUE
LIBERTY AND INDEPENDENCE

VETOES.

BILLS RETURNED TO THE LEGISLATURE BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, DURING ITS REGULAR SESSION, ENDING APRIL 13, A. D. 1905.

No. 1.

AN ACT

For the protection of index boards, erected or to be erected by the supervisors of the several townships of the Commonwealth of Pennsylvania, at the intersection of public roads within the several townships of the said Commonwealth, and prescribing penalties for the violation of its several provisions.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be a misdemeanor for any person or persons, within this Commonwealth, to deface, disfigure or destroy any index board, erected at the intersection of any public road or roads by the supervisor or supervisors thereof.

Section 2. Any person or persons violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof before any alderman or justice of the peace of the county wherein the offense was committed, shall be sentenced to pay a fine of not less than five dollars and not exceeding twenty-five dollars, which shall be paid to the treasurer of the school-board of the school-district within which the offense shall have been committed, for the use of the public schools of the said district. In default of the payment of the fine imposed, the person so convicted shall be sentenced to imprisonment in the county jail of said county, for the period of one day for each dollar of the fine so imposed.

Section 3. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 2, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 20, entitled "An act for the protection of index boards, erected or to be erected by the supervisors of the several townships of the Commonwealth of Pennsylvania, at the intersection of public roads within the several townships of the said Commonwealth, and prescribing penalties for the violation of its several provisions."

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This bill makes it a misdemeanor for any person or persons to deface or destroy an index board, erected at the "intersection of any public road or roads by the supervisor or supervisors thereof." It further provides that upon conviction of the misdemeanor, before any alderman or justice of the peace of the county wherein the offense was committed, the person violating the act shall be sentenced to pay a fine of not less than five dollars and not exceeding twenty-five dollars, "which shall be paid to the treasurer of the school board," and that, in default of the payment, he shall be sentenced to imprisonment for a period of one day for each dollar of the fine. The offense sought to be prevented by the bill might well have been treated as a petty offense, for which there could be a summary conviction before an alderman or justice of the peace. The bill, however, makes the offense a misdemeanor, and provides for its punishment by imprisonment without trial by jury, and probably, therefore, violates the Constitution. There is no provision for a writ of habeas corpus, or other supervision by the courts. The fine is to be paid, not to the alderman or justice, but to the treasurer of the school board. The sentence of imprisonment is to be imposed in default of the payment of the fine. How long a time is to intervene before the person convicted shall be considered in default does not appear. Since the payment is to be made to the treasurer of the school board, some time must be supposed to intervene, and it ought to be defined. There is no such thing as "the intersection of any public road."

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 2.

AN ACT

Confirming and validating elections heretofore held for the increase of municipal indebtedness, notwithstanding defects in procedure or ballot.

Section 1. Be it enacted, &c., That all elections heretofore held by any county, city, borough, township, school district, or other municipality or incorporated district within this Commonwealth, to increase its indebtedness, under the provisions of an act, entitled "An act to regulate the manner of increasing the indebtedness of municipalities, to provide for the redemption of the same, and to impose penalties for the illegal increase thereof," approved twentieth April, one thousand eight hundred and seventy-four, and acts amendatory thereof and supplemental thereto, where the necessary majority of votes was cast at such election in favor of the increase of indebtedness, be and the same are hereby ratified, confirmed and made valid, notwithstanding any defect in the time or manner of calling such election, or any defect in the form of ballot, or in the mode of conducting such election.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 2, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 28, entitled "An act confirming and validating elections heretofore held for the increase of municipal indebtedness, notwithstanding defects in procedure or ballot."

This bill provides that all elections heretofore held by any county, municipality or incorporated district to increase its indebtedness, under the provisions of the act of April 20, 1874, and its amendments, "where the necessary majority of votes was cast at such election in favor of the increased indebtedness," be made valid, notwithstanding any defect "in the time or manner of calling such election, or any defect in the form of ballot, or in the mode of conducting such election." This bill is so broad in its terms as to constitute dangerous legislation. Its application is not confined to cases where the obligations of the municipality have been issued, and where, therefore, it would be a protection to innocent purchasers, but it applies to all elections heretofore held, whether or not the obligations have been issued. The defects which it proposes to cure are not only defects of form, but it includes all defects, and would cover instances in which those defects may be vital and fundamental, as well as those which may be only irregularities. If, for example, the form of the ballot was such as to indicate to the voter accurately the subject for which he has voted, and the view upon that subject which he wished to express, it might well be cured, even though the exact words of the statute were not used; but if, on the other hand, the defect in the form was such that it did not express clearly what was the will of the voter, it would not be wise to ratify such an election. A defect "in the mode of conducting such election" might be an unimportant matter, and might also be the reception of illegal votes, or the incorrect addition of the votes, or the incorrect return of the votes cast.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 3.

A JOINT RESOLUTION

To provide for the participation of the State of Pennsylvania in the Lewis and Clark Centennial Exposition, to be held in the city of Portland, Oregon, in the year one thousand nine hundred and five, in commemoration of the one hundredth anniversary of the exploration of the Oregon country by an expedition planned by President Jefferson and commanded by Captain Meriwether Lewis and William Clark; and providing for the appointment of a Commission, and making an appropriation to defray the expenses of the same.

Whereas, An Exposition to celebrate the one hundredth anniversary of the exploration of the Oregon country by an expedition planned by President Jefferson and commanded by Captains Meri-

wether Lewis and William Clark, will be held in the city of Portland, Oregon, beginning on June first, one thousand nine hundred and five, and continuing until October fifteenth, one thousand nine hundred and five;

Whereas, The United States Government has appropriated for its building and exhibits four hundred and seventy-five thousand dollars, the State of Oregon has appropriated five hundred thousand dollars, and the citizens have subscribed and paid in five hundred thousand dollars,—the approximate cost of the whole Exposition to be five millions;

Whereas, An invitation has been extended to the several states and territories to participate in this Exposition, and many have accepted such invitation and made suitable appropriation to cover the cost of the same;

Therefore resolved, by the Senate and House of Representatives of the General Assembly, that a commission of seventeen members be created on the approval of this joint resolution, to be constituted as follows: the Governor, Lieutenant Governor of the State; the present President pro tempore of the Senate, and he shall appoint three members of the Senate; the Speaker of the House of Representatives, and he shall appoint five members of the House of Representatives; and five persons, to be appointed by the Governor of the Commonwealth, of which the Governor shall be President. They shall organize within fifteen days after their appointment, and make the necessary arrangements for the proper representation of this Commonwealth at said Exposition, including the erection of a suitable State building, and aiding exhibitors as in their judgment shall be proper, in order to secure exhibits on the part of this Commonwealth; for which purpose the sum of sixty thousand dollars is appropriated, or so much thereof as may be necessary.

Resolved, That when said Exposition shall have closed, all the property belonging to the said Commission shall be sold, and the proceeds thereof paid into the general fund of the State Treasury.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 3, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate bill No. 1, entitled "A joint resolution to provide for the participation of the State of Pennsylvania in the Lewis and Clark Centennial Exposition, to be held in the city of Portland, Oregon, in the year one thousand nine hundred and five, in commemoration of the one hundredth anniversary of the exploration of the Oregon country by an expedition planned by President Jefferson, and commanded by Captain Merriwether Lewis and William Clark; and providing for the appointment of a Commission, and making an appropriation to defray the expenses of the same."

While this bill has apparently the form of a joint resolution, it is certified to me as Senate bill No. 1, and, therefore, some difficulty arises as to what should be its proper designation. The resolution

directs that a commission of seventeen members be created to make the necessary arrangements for a proper representation of this Commonwealth at the exposition to celebrate the one hundredth anniversary of the exploration of the Oregon country. It further provides that the commission shall be constituted as follows: "The Governor, Lieutenant Governor of the State; the present President pro tempore of the Senate, and he shall appoint three members of the Senate; the Speaker of the House of Representatives, and he shall appoint five members of the House of Representatives; and five persons, to be appointed by the Governor of the Commonwealth, of which the Governor shall be President." The object sought to be accomplished is one entirely commendable, and, if there were no other objection to the resolution, it might well be approved. The resolution, however, raises a question of much more importance than the immediate object to be accomplished, for the reason that it affects the fundamental principles of the government of the Commonwealth. Article IV, Section 2 of the Constitution, provides, "The Supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed." Article II, Section 1 of the same instrument, provides, "The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives." There is nothing in the Constitution, anywhere, which indicates a purpose to give executive power of any kind to the General Assembly. No doubt the framers of the Constitution found their reason for these two provisions in the experience of governments in the past, which has seemed to have taught that executive action is weakened when vested in large bodies, and that a concentration of executive authority is of value to the community. However this may be, the Constitution has so directed, and it is the duty of the Assembly, as well as the Governor, to obey this fundamental law. To make the arrangements for such an exposition as that proposed would appear to be purely executive work. If the resolution had provided that a majority of the commission should be appointed by the Governor, the difficulty might have been overlooked; but since twelve out of the seventeen of the members are appointed in other ways, it would seem to deprive him of that executive authority which is imposed upon him by the Constitution. The difficulty is increased and exaggerated by making the Governor the President of the commission. Under the terms of the resolution, he would be placed in a position of the most difficult and trying character; that of being ostensibly the head of a movement, and responsible for its results, without having any real power of direction. The effect of this embarrassing attitude has probably not been foreseen by the Senate and House. If it should be thought wise for the General Assembly to assume executive control, it would be far better for them to appoint the entire commission, omitting the Governor, as in that event the responsibility would be placed where the power is exercised. There are other objections to the proposed course. When the Governor appoints, he has the power of removal; and in the event that any of the appointees should prove to be incompetent or unworthy, changes may be made. Appointments by the Senate and House are not subject to such supervision, for the reason that the Legislature

only convenes once in two years. The resolution provides that the present President pro tempore of the Senate "shall appoint three members of the Senate," inferentially to be members of the commission. In the event of his death, resignation, or the selection by the Senate of another presiding officer, there would be no one to appoint these three members, and after they shall have been appointed there would be no one to exercise any supervision, should a mistake have been made. Since this exposition is to be held on the Pacific Coast, at a distance of some thousands of miles, a comparatively small commission would seem to be desirable.

I return this resolution, with my objections, with the utmost promptness, in order that they may be duly considered and participation in the exposition may not be delayed.

For the reasons above set forth, the Joint Resolution, or Senate bill No. 1, is not approved.

SAML. W. PENNYPACKER.

No. 4.

AN ACT

To prohibit the adulteration of food, and providing for the enforcement thereof.

Section 1. Be it enacted, &c., That any person, firm or corporate body who shall, by himself, herself or themselves, or by his, her or their agents or servants, manufacture, sell, ship, consign, offer for sale, or expose for sale, or have in possession with intent to sell any fruit-syrup, prepared fruit or fruit product; or any syrup whose flavor is derived from any bark or root, such as birch, ginger, sassafras or sarsaparilla, or any plant, such as peppermint or wintergreen, or any vegetable product, nut or bean, such as chocolate or vanilla; or other kindred products, such as herein described; or any admixture of such fruit-syrups, prepared fruit or fruit products; which are or may be manufactured particularly for use in the preparation and dispensing of soda-water, carbonated beverages, or so-called soft-drinks, ices or ice cream, and containing, in the original package or concentrated form, more than one-fourth of one per centum of sodium-benzoate; or more than one-fourth of one per centum of added color, obtained from cochineal, caramel, turmeric, cudbear, beats, saffron, spinach, or any vegetable substances which are equally harmless, according to the United States, National or other standard dispensatories, shall be deemed guilty of a misdemeanor; and, upon conviction thereof in the court of quarter sessions of the peace of the proper county, shall be sentenced to pay a fine not less than fifty dollars ($50.00) nor more than one hundred ($100.00) dollars, or to undergo an imprisonment not exceeding sixty days in the jail of the county, or both, at the discretion of the court; but the use of such added substances, in said proportions or less, shall be and is hereby permitted: Provided, however, That nothing in this section contained shall in any way alter or affect existing laws regulating the sale of wines, spirituous or malt liquors, vinegar or natural fruit juices: And provided further, That no added or

artificial color shall be used in any product mentioned in this section, so that putrefaction, decay, or other inferiority of a similar nature, is concealed; or so that any article or product, herein referred to, shall appear other than it really is; or so as to have any other effect than to restore or supply the nautral color or appearance of the fruit or vegetable substances from which said article or product is made.

Section 2. It shall be the duty of the Dairy and Food Commissioner to enforce the provisions of this act, for which purpose he shall have the same power which is given him to enforce the provisions of the act authorizing his appointment.

Section 3. All penalties or fines which may be recovered in any proceeding to enforce the provisions of this act, shall be paid to the Dairy and Food Commissioner or his agent, and by him paid into the State Treasury; and the money so paid shall constitute a special fund, for the use of the Department of Agriculture in enforcing this act, and may be drawn out upon warrants signed by the Secretary of Agriculture and approved by the Auditor General.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 8, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 63, entitled "An act to prohibit the adulteration of food, and providing for the enforcement thereof."

Article III, Section 3, of the Constitution provides that the subject of every bill "shall be clearly expressed in its title." The title of the present bill is "An act to prohibit the adulteration of food, and providing for the enforcement thereof." There is no prohibition in the bill which is not contained in the Act of June 26, 1895. The subject of the bill purports to be the prohibition of the sale of fruit syrups, prepared fruits and fruit products containing "more than one-fourth of one per centum of sodium-benzoate, or more than one-fourth of one per centum of added color," obtained from harmless vegetable substances. As the Act of 1895 prevents the use of these substances, this bill, if it became a law, wouid be a repeal to that extent of the former act. It would also be such a repeal without any reference whatever to the preceding act, as the Constitution requires. The subject of the bill, however, is not the prohibition of the adulteration of food, since this subject had been much more fully covered by the prior legislation. The real purpose is found in the words, "but the use of such added substances, in such proportions or less, shall be and is hereby permitted." To this subject, which constitutes the really important part of the bill, there is no reference whatever in the title, and therefore the bill is plainly unconstitutional. Since these important words are contained in the midst of a long section, the bill is calculated to mislead the legislator, and is an unusually striking example of the evil which the provision of the Constitution, with respect to the title, was intended to prevent.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 5.

A FURTHER SUPPLEMENT

To an act, entitled "An act relating to executions," approved June sixteenth, eighteen hundred and thirty-six; amending sections one hundred and six and one hundred and seven of said act, by providing that proceedings to obtain possession of land, sold on execution, shall take place before one justice of the peace, alderman or magistrate, and a jury of six men, instead of before two justices of the peace or aldermen, and a jury of twelve men, as provided by said act; and fixing the time for the hearing in such proceedings.

Section 1. Be it enacted, &c., That the one hundred and sixth section of an act, entitled "An act relating to executions," approved June sixteenth, one thousand eight hundred and thirty-six, which reads as follows:

"Section 106. If the defendant, or any person in possession under him, as aforesaid, shall refuse or neglect to comply with the notice and requisition of the purchaser, as aforesaid, such purchaser, or his heirs or assigns, may apply by petition, to any two justices of the peace or aldermen of the city, town of county where such real estate may be, setting forth:

First. That he purchased the premises at a sheriff's or cororner's sale.

Second. That the person in possession at the time of such application, is the defendant. as whose property such real estate was sold, and that he came into possession thereof under him.

Third. That such person in possession had notice, as aforesaid, of such sale, and was required to give up such estate three months previously to such application," be and the same is hereby amended so as to read as follows:

Section 106. If the defendant, or any person in possession under him, as aforesaid, shall refuse or neglect to comply with the notice and requisition of the purchaser, as aforesaid, such purchaser, or his heirs or assigns, may apply by petition to any justice of the peace, alderman or magistrate, of any city, town, borough or county where such real estate may be, setting forth:

First. That he purchased the premises at a sheriff's or coroner's sale.

Second. That the person in possession at the time of such application is the defendant, as whose property such real estate was sold, and that he came into possession thereof under him.

Third. That such person in possession had notice, as aforesaid, of such sale, and was required to give up such estate three months previously to such application.

Section 2. That the one hundred and eleventh section of said act, which reads as follows:

"Section 107. If the applications, as aforesaid, shall be verified by the oath or affirmation of the petitioner, or if probable cause to believe the facts therein set forth be otherwise shown, the said justices are hereby enjoined and required, forthwith to issue their warrant, in the nature of a summons, directed to the sheriff of the county, commanding him to summon a jury of twelve men of his baliwick, to appear before the said justices, at a time and place to be specified, within four days next after the issuing thereof, and also, to summon the defendant, or person in possession, as aforesaid, at

the same time appear before them and the said jury, to show cause, if any he has, why delivery of the possession of such lands or tenements should not be forthwith given to the petitioner," be and the same is hereby amended so that the said section shall read as follows:

Section 107. If the application, as aforesaid, shall be verified by the oath or affirmation of the petitioner, or if probable cause to believe the facts therein set forth be otherwise shown, the said justice, alderman or magistrate is hereby enjoined or required, forthwith to issue his warrant, in the nature of a summons, directed to the sheriff of the county, commanding him to summon a jury of six men of his bailiwick, to appear before the said justice, alderman or magistrate, at a time and place to be specified, within not less than three nor more than eight days next after the issuing thereof, and also to summon the defendant, or person in possession, as aforesaid, at the same time, to appear before him and the said jury to show cause, if any he has, why deliverey of the possession of such lands or tenements should not be forthwith given to the petitioner.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 15, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 92, entitled "A further supplement to an act, entitled 'An act relating to executions,' approved June sixteenth, eighteen hundred and thirty-six; amending sections one hundred and six and one hundred and seven of said act, by providing that proceedings to obtain possession of land, sold on execution, shall take place before one justice of the peace, alderman or magistrate, and a jury of six men, instead of before two justices of the peace or aldermen, and a jury of twelve men, as provided by said act; and fixing the time for the hearing in such proceedings."

It is to be regretted that this bill, which proposes what would be an entirely proper subject for legislation, must be disapproved because of the want of care which has been shown it its preparation. Upon page two of the bill, in reciting section one hundred and six of the Act of June 16, 1836, to which the bill is intended to be a supplement, upon line thirteen, the word "of" is substituted for the word "or." Upon the same page in line fifteen, an officer whose office has been well known ever since the origin of the common law is called a "cororner." Upon the same page, in line eighteen, in reciting the same section of the act referred to, the word "and" has been substituted for the word "or." The bill proposes to amend section one hundred and six of the said act, so that the purchaser at a sheriff's or orphans' court sale of real estate may apply to an alderman or magistrate, setting forth: "Second. That the person in possession at the time of such application is the defendant, as whose property such real estate was sold, and that he came into possession thereof under him." It is manifest that no such state of facts could ever arise. If the person in possession were the defendant,

as whose property the real estate was sold, he could not have come into possession under the defendant. The difficulty arises because of the substitution of the word "and" for the word "or," as it appears in that section of the Act of 1836. Upon page three, the bill proposes to amend the one hundred and eleventh section of the said act. The section, however, which is recited is not the one hundred and eleventh, but the one hundred and seventh. In two places, one upon line forty-seven of page three, and the other upon line sixty-two of the same page, there is a reference to a "baliwick." Upon line fifty-one of page three the word "to" is omitted before the verb "appear." The bill is not "A further Supplement," but it is a bill to amend certain sections of the Act of 1836, and is so described in its enacting portions.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 6.

AN ACT

Amending the first, second and third sections of the act, entitled "An act authorizing the condemnation of real estate needed for the use of State normal schools," approved tenth July, one thousand nine hundred and one; and extending it to the condemnation of streets or alleys, opened or unopened, laid out and dedicated by the proprietors of town plots, but not under public supervision or control, and close the same or portions thereof; and providing for the payment of costs on appeal.

Section 1. Be it enacted, &c., That the first section of an act, entitled "An act authorizing the condemnation of real estate needed for the use of State normal schools," approved the tenth day of July, Anno Domini one thousand nine hundred and one, which reads: "That whenever the board of trustees of any State normal school of this Commonwealth deem it necessary to enlarge the area of the real estate upon which the buildings of said normal school are erected, to meet the growing demands of said institution, including a campus, and cannot agree with the owner or owners of the land they wish to acquire, as to its purchase or occupancy, it shall be lawful for said board of trustees, on behalf of said normal school district, to enter upon and occupy sufficient ground for the purposes aforesaid, which they shall mark off, not exceeding two acres, and to use and occupy the same for the purposes for which they desire to use and occupy the same in connection with the said school; and for all damages done for the taking of the same, for the purposes aforesaid, the trustees of such normal school district shall give bond, with security approved by the court of common pleas of the county in which such lands are situated, conditioned for the payment of such damages when the same shall be agreed upon by the parties, or assessed according to law, which bond shall be filed in said court for the use of the person interested," be and the same is hereby amended so as to read as follows:

Section 1. Be it enacted, &c., That whenever the board of trus-

tees of any State normal school of this Commonwealth deem it necessary to enlarge the area of the real estate upon which the buildings of said normal school are erected, to meet the growing demands of said institution, including a campus, and cannot agree with the owner or owners of the land they wish to acquire, as to its purchase or occupancy; or the land proposed to be taken, occupied or condemned be subject to streets or alleys, or portions thereof, opened or unopened, laid out and dedicated by the proprietors of a town plot, but not under public supervision or control, which streets or alleys, or portions thereof, laid out as aforesaid, cannot by agreement with the dominant estate or the other owners of lots in said town plot, or the proprietor of said plot be purchased or acquired, then it shall be lawful for said board of trustees, on behalf of said normal school-district, to enter upon and occupy sufficient ground for the purposes aforesaid, which they shall mark off, not exceeding two acres, and to use and accupy the same, for the purposes for which they desire to use and occupy the same in connection with the said school, freed from any streets or alleys, or portions thereof, opened or unopened, laid out and dedicated by the proprietor of any town plot, but not under public supervision or control, and to close the same; and for all damages done for the taking of the same, for the purposes as aforesaid, the trustees of such normal school-district shall give bond, with security approved by the court of common pleas of the county in which such lands are situate, conditioned for the payment of such damages to the owner or owners of the land so acquired, and for the taking of streets or streets, alleys, alleys or portions thereof, opened or unopened, laid out and dedicated by the proprietors of any town plot, but not under public supervision or control, when the same shall be agreed upon by the parties or assessed according to law, which bond shall be filed in said court for the use of the person or persons interested.

That the second section of said act which reads:

"Section 2. And it shall be lawful for the court of common pleas of the proper county in which said normal school is located, on application thereto by petition, either by said normal school district by its president or secretary, they being instructed by their board so to do, or by the owner or owners of said lands, in behalf of all to appoint a jury, consisting of three disinterested citizens of said county, and appoint a time, not less than thirty days thereafter, for said viewers to meet upon said land, of which time and place at least ten days' notice shall be given by petitioner to the said viewers and the other party; and the said viewers, or any two of them, having first been duly sworn or affirmed faithfully, justly and impartially to decide and a true report to make concerning all matters to be submitted to them in the premises, and having viewed said ground, they shall estimate and determine the quantity and value of said land so taken, to be used for the purposes aforesaid; and after having made a just and fair comparison of the advantages and disadvantages, they shall estimate and determine whether any, and, if any, what amount of damages has been or may be sustained, and to whom payable, and make report thereof to said court; and if damages be awarded, and the report be confirmed by the said court, judgment shall be entered therefor; and if the amount thereof be not

paid within thirty days after the entry of said judgment, execution to enforce payment shall be had as in other similar cases: Provided, That either party shall have the right to have reviewers appointed by said court. Each viewer shall receive three dollars per day for each day necessarily employed in said view or review: And provided, also, That each party shall have the right to appeal from the report of said viewers or reviewers to the court of common pleas, within thirty days after the filing of such report, and the same shall be tried by a jury as in similar cases," be and the same is hereby amended so as to read as follows:

Section 2. And it shall be lawful for the court of common pleas of the proper county in which said normal school is located, on application thereto by petition, either by said normal school district by its president or secretary, they being instructed by their board so to do, or by the owner or owners of said land, or the proprietor of said town plot, or the owner of any lot therein whereon said street, alley, or portion thereof, opened or unopened, has been laid out and dedicated by the proprietor of such town plot, but not under public supervision or control, in behalf of all, to appoint a jury, consisting of three disinterested citizens of said county, and appoint a time, not less than thirty days thereafter, for said viewers to meet upon said premises; of which time and place at least ten days' notice shall be given by the petitioner to the said viewers and the other party; and the said viewers or any two of them, having first been duly sworn or affirmed faithfully, justly and impartially to decide and a true report to make concerning all matters to be submitted to them in the premises, and having viewed said ground, inquired concerning, and the use of any street, alley, or portion thereof, laid out and dedicated by the proprietor of said town plot, but not under public supervision or control, they shall estimate and determine the quality and value of said land so taken, the value of the street, alley or portion thereof proposed to be closed, to the proprietor of said town plot or any owner of a lot or lots therein; and, having made a just and fair comparison of the advantages and disadvantages, they shall estimate and determine whether any, and, if any, what amount of damages has been or may be sustained, and to whom payable, and make report thereof to said court; and if damages be awarded, and the report be confirmed by the said court, judgment shall be entered therefor; and if the amount thereof be not paid within thirty days after the entry of said judgment, execution to enforce payment shall be had as in other similar cases: Provided, That either party shall have the right to have reviewers appointed by said court. Each viewer shall receive three dollars per day for each day necessarily employed in said view or review: And provided also, That either party shall have the right to appeal from the report of the viewers or reviewers to the court of common pleas, within thirty days after the filing of such report, and the same shall be tried by a jury as in similar cases.

That the third section of said act which reads:

"Section 3. The cost of the first view shall be paid by the party condemning the property; the cost of the review or appeal shall be paid by the party losing the controversy," be and the same is hereby amended so as to read as follows:

Section 3. The cost of the first view shall be paid by the State Normal school condeming the property; the cost of the review shall be paid by the party losing the controversy, and the costs on appeal shall be paid by the appellant who fails to secure a higher or lower award, as the case may be, than that appealed from.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 17, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 27, entitled "An act amending the first, second and third sections of the Act, entitled 'An act authorizing the condemnation of real estate needed for the use of State normal schools;' approved tenth July, one thousand nine hundred and one; and extending it to the condemnation of streets or alleys, opened or unopened, laid out and dedicated by the proprietors of town plots, but not under public supervision or control, and close the same or portions thereof; and providing for the payment of costs on appeal."

One of the purposes of the present Constitution was to prevent special legislation. It is manifest that the object of this bill is, under the guise of a general act of Assembly, to make provision for a particular case which has arisen somewhere within the Commonwealth. It directs, in the first section, that where trustees of normal schools take and condemn lands for the use of the schools, which land is "subject to streets or alleys, or portions thereof, opened or unopened, laid out and dedicated by the proprietors of a town plot, but not under public supervision or control, which streets or alleys, or portions thereof, laid out as aforesaid, cannot by agreement with the dominant estate or the other owners of lots in said town plot, or the proprietor of said plot," be purchased, then it shall be lawful for the trustees to enter upon the land and occupy it free from such streets or alleys. If the bill were, in fact, intended to be a general act, all that would have been necessary to be done would be to confer upon the trustees of normal schools the right to condemn dedicated streets or alleys, as well as the land over which they were laid out. The effort to make the language of a general bill fit the special facts of the case has led to great confusion of thought. If the streets or alleys have been dedicated, by the proprietors of a town plot, to the public, then they are subject to the supervision and control of the municipality. In a case of streets or alleys the dominant estate is that which consists of the easement or right of way, and the servient estate is that over which a right of way exists. The draftsman of this bill evidently thought that the dominant estate was the owner of the fee, since the bill provides for a case where an agreement cannot be made with him, and because it refers to "the other owners of lots." The same section later provides that a bond shall be given, conditioned for the payment of damages to the owner of the land and for the taking of 'streets or streets, alleys, alleys, or portions thereof," not only when they have been condemned, but "when the same shall be agreed

upon by the parties." There is no reason why this should be made a provision of the bond, since the act applies only to the case where the parties are unable to agree.

Section two directs "the court of common pleas of the proper county," upon petition, to appoint a jury. In this State there is no court of common pleas of a county. The State is divided into judicial districts. Some counties have several courts of common pleas; some districts comprise several counties. The petition is to be presented to the court in certain cases "by said normal school district by its president or secretary." There is no such officer as the president or secretary of a normal school district. The normal schools are controlled by boards of trustees.

Section three provides that "the costs on appeal shall be paid by the appellant who fails to secure a higher or lower award, as the case may be, than that appealed from." The interpretation of these words seems to be that if the appellant secures a higher award, he is to pay the costs, and if he secures a lower award, he is also to pay the costs. This can hardly have been what was intended. Upon the whole, there is so much uncertainty about this bill that it ought not to become a law.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 7.

AN ACT

Amending section nine of an act approved May fifth, one thousand eight hundred and ninety-nine, entitled "An act supplementing and amending an act, entitled 'An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its relation to the Supreme Court and other courts; providing for the reports of its decisions, the compensation of the judges and other officers, and the practice and costs on appeals from its judgments,' approved June twenty-fourth, Anno Domini one thousand eight hundred and ninety-five."

Section 1. Be it enacted, &c., That section nine of an act approved May fifth, Anno Domini one thousand eight hundred and ninety-nine, entitled "An act supplementing and amending an act, entitled 'An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its relation to the Supreme Court and other courts; providing for the reports of its decisions the compensation of the judges and other officers, and the practice and costs on appeal from its judgments,' approved June twenty-fourth, Anno Domini one thousand eight hundred and ninety-five," which reads as follows:

"Section 9. All necessary dockets, blank-books, seals, stationery and other supplies shall be obtained and furnished by the Secretary of the Commonwealth, in the same manner as books and supplies are furnished to and for his own department. And to facilitate the labors of the judges of the Superior Court, the said judges are hereby authorized to employ the help of stenographers, typewriters or other clerks, provided that the cost of such help shall not exceed the sum of seven hundred dollars per annum for any member of said

court. The cost of such help shall be paid by the judge employing the same, and shall be repaid to him by the State Treasurer, on his certificate of the amount actually paid by him during the preceding three months for clerk hire," be and the same is hereby amended so as to read as follows:

Section 9. All necessary dockets, blank-books, seals, stationery and other supplies shall be obtained and furnished by the Secretary of the Commonwealth, in the same manner as books and supplies are furnished to and for his own department. And to facilitate the labors of the judges of the Superior Court, the said judges are hereby authorized to employ the help of stenographers, typewriters or other clerks, provided that the cost of such help shall not exceed the sum of fifteen hundred dollars per annum for any member of said court. The cost of such help shall be paid by the judge employing the same, and shall be repaid to him by the State Treasurer, on his certificate of the amount actually paid by him during the preceding month for clerk hire.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 22, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 10, entitled "An act amending section nine of an act approved May fifth, one thousand eight hundred and ninety-nine, entitled 'An act supplementing and amending an act, entitled 'An act to establish an intermediate court of appeal; regulating its constitution, officers, jurisdiction, powers, practice, and its relation to the Supreme Court and other courts; providing for the reports of its decisions, the compensation of the judges and other officers, and the practice and costs on appeals from its judgments,' approved June twenty-fourth, Anno Domini one thousand eight hundred and ninety-five.' "

The purpose of this bill is to amend section nine of an act approved May 5, 1899, in such a way as to increase the amount allowed to the judges of the Superior Court for clerk hire, from $4,900 a year to $10,500 a year. This subject is nowhere expressed in the title, as is required by Article III, Section 3 of the Constitution.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 8.

AN ACT

Increasing the number of courts of common pleas in the county of Allegheny, establishing therein a distinct and separate court of common pleas, designated court of common pleas number five, and providing for the election and appointment of judges for said court.

Section 1. Be it enacted, &c., That there shall be and hereby is established in the county of Allegheny a distinct and separate court

of common pleas, designated court of common pleas number five, of Allegheny county; composed of three judges, learned in the law, who shall hold office for the same term, with like powers, duties, authority, and compensation, and with like constitution, and equal and co-ordinate jurisdiction, with courts of common pleas numbers one, two, three, and four of said county, and the judges thereof, respectively.

Section 2. Three judges of said court of common pleas number five, of Allegheny county, learned in the law, shall be elected by the duly qualified electors of said county, at the next general election; one of said judges, to be designated as required by the Constitution of the Commonwealth, shall be president judge of said court. Said judges shall be duly commissioned as judges, aforesaid, and shall enter upon the discharge of their duties, respectively, on the first Monday of January next following their election. The successors of said judges, respectively, shall be elected or appointed as required by law.

Section 3. The Governor is hereby authorized to appoint three competent persons, learned in the law, as judges of said court, until the first Monday of January succeeding the next general election; one of whom shall be designated as president judge for said period.

Section 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisbur, March 24, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 14, entitled "An act increasing the number of courts of common pleas in the county of Allegheny, establishing therein a distinct and separate court of common pleas, designated court of common pleas number five, and providing for the election and appointment of judges for said court."

This bill may be considered in connection with Senate bill No. 15, which suggests legislation upon a like subject. The effect of these bills would be, if they became laws, to increase the number of judges of the courts of common pleas in Allegheny county from nine to fifteen, and to lead to an expenditure for salaries alone of the annual sum of $51,000. The increase of the number of judges throughout the State, unless there is an actual and pressing necessity for it, is not a wise course. It is important for the welfare of the courts and the administration of the law that the people should retain their confidence in the judges, and that they should not have cause to think that any of these judges hold their positions, not through public necessity, but through the desire to gratify the ambitions of individuals. If there be many judges, there is a certain loss of respect through the mere fact of the number alone. They cannot be expected to exercise the same authority and to retain the same dignity if they be numerous. At the last session of the Legislature the salaries of the judges over the State were materially in-

creased, and it seems to me that, before adding to their number, it would be well to wait and see whether or not this enhancement has any effect upon the crowded conditions of the trial lists in certain localities. The question of the necessity for an increase of judges is one very difficult to determine. With respect to Allegheny county, there appears to be a considerable difference of opinion as expressed by those who ought to have knowledge upon the subject. It is certain that an increase in one locality always leads to further increase in other directions, for the reason that the people in those localities feel that they have a right too to participate in such advantages. With respect to the need, we get considerable light by a comparison of the number of judges with the number in other communities. Pennsylvania, with a population of 6,302,115 under the last census, has ninety-six common pleas judges, and New York, with a population of 7,268,894, has seventy-five Supreme Court judges, who do a like work with that in our courts of common pleas. Philadelphia, with a population of 1,293,697, has fifteen common pleas judges, or one to 86,246 persons. Allegheny county, with a population of 775,058, has nine common pleas judges, or one to 86,117 persons; so that now, to a slight extent, there are more judges in proportion to population in Allegheny county than there are in Philadelphia. We have in Pennsylvania ninety-six common pleas judges, or one judge to every 65,647 people. Nearly all of them exercise the jurisdiction of judges of the orphans' court as well as judges of the common pleas court. If we divide the population of Allegheny county by twelve, the number of judges there, in the common pleas and the orphans' court, we have one judge to every 64,568 people, which, if this calculation be correct, shows that they have more than their proportion, as indicated by the number of judges throughout the State. Of course, it is difficult to make a comparison between the population of a dense municipality, where there are large interests, with that of other communities. If, however, we make the comparison with those of other large cities, we meet with the same result. The comparison with Philadelphia has already been shown. In New York city, where commercial, banking and other interests are unusually great, there is only one Supreme Court judge to 101,094 people.

So far as I am able to see, and it must be admitted that the light is somewhat uncertain, regard for the welfare of the judiciary, for the good of the people, and for economical administration, leads to a conclusion adverse to the provisions of this bill.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 9.

AN ACT

Increasing the number of courts of common pleas in the county of Allegheny, establishing therein a distinct and separate court of common pleas, designated court of common pleas number four, and providing for the election and appointment of judges for said court.

Section 1. Be it enacted, &c., That there shall be and hereby is established in the county of Allegheny a distinct and separate court

of common pleas, designated court of common pleas number four, of Allegheny county; composed of three judges, learned in the law, who shall hold office for the same term, with like powers, duties, authority, and compensation, and with like constitution, and equal and co-ordinate jurisdiction, with courts of common pleas numbers one, two, and three of said county, and the judges thereof, respectively.

Section 2. Three judges of said court of common pleas number four, of Allegheny county, learned in the law, shall be elected by the duly qualified electors of said county, at the next general election; one of said judges, to be designated required by the Constitution of the Commonwealth, shall be president judge of said court. Said judges shall be duly commissioned as judges, aforesaid, and shall enter upon the discharge of their duties, respectively, on the first Monday of January next following their election. The successors of said judges, respectively, shall be elected or appointed as required by law.

Section 3. The Governor is hereby authorized to appoint three competent persons, learned in the law, as judges of said court, until the first Monday of January succeeding the next general election; one of whom shall be designated as president judge for said period.

Section 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 24, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 15, entitled "An act increasing the number of courts of common pleas in the county of Allegheny, establishing therein a distinct and separate court of common pleas, designated court of common pleas number four, and providing for the election and appointment of judges for said court."

For the reasons which are set forth in the message returning Senate bill No. 14, this bill does not meet with my approval.

SAML. W. PENNYPACKER.

No. 10.

AN ACT

To provide for an additional law judge of the several courts of the Sixth Judicial District, composed of the county of Erie.

Section 1. Be it enacted, &c., That in addition to the judges porvided for in an act, entitled "An act to designate the several judicial districts of the Commonwealth as required by the Constitution, and to provide for the election, appointment and commissioning of judges learned in the law for the said districts, in cases where such judges are not provided for by existing law," approved the eighteenth day of July, Anno Domini one thousand nine hundred and

one, an additional law judge is hereby authorized and provided for the several courts of the Sixth Judicial District, composed of the county of Erie, who shall possess the same qualifications which are required by the Constitution and laws for the president judge of said district, and who shall hold his office for a like term and by the same tenure, and shall have the same powers, authority and jurisdiction, and shall be subject to the same duties, restrictions and penalties, and shall receive such compensation as is provided by law.

Section 2. At the next general election after the passage of this act, the qualified electors of the said sixth judicial district shall elect, in the manner provided by law for the election of a president judge, a competent person, learned in the law, to serve as additional judge in said district. Vacancies in the office hereby created, whether caused by death, resignation, expiration of term, or otherwise, shall be filled in the same manner as is required by law in case of a similar vacancy in the office of president judge.

Section 3. The judge in said district whose commission shall first expire shall be the president judge thereof, excepting where the president judge be re-elected, in which case he shall continue to be president judge.

Section 4. The Governor is hereby authorized to appoint some competent person, learned in the law, to serve as such additional law judge, of said judicial district, until the first Monday in January succeeding said next general election.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 24, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 40, entitled "An act to provide for an additional law judge of the several courts of the Sixth Judicial District, composed of the county of Erie."

A better way to overcome the difficulty which exists would be to unite the counties of Erie, Warren and Forest into one judicial district. The counties of Forest and Warren, which now constitute the thirty-seventh district, contain a population of only 49,985. By this method the two judges, who are now commissioned in the two districts, would be entirely able to take care of all the judicial work in the district which would be created by the union of these three counties.

For this reason, and likewise for reasons set forth in the message returning Senate bill No. 14, this bill does not meet with my approval.

SAML. W. PENNYPACKER.

No. 11.

AN ACT

Relating to the appointment of official stenographers and assistants in the courts of this Commonwealth; prescribing their qualifications, duties and compensations, the time and effect of taking exceptions during trials, the certificates to be made in regard to the transcribed notes of trials, and making their transcribed and certified notes conclusive on appeals and prima facie evidence in other respects.

Section 1. Be it enacted, &c., That it shall be the duty of each court of common Pleas and Orphans' court in this Commonwealth to appoint an official stenographer, or stenographers, to be attached to the court, each of whom shall hold his or her office during the pleasure of the court. Any official stenographer appointed under this act may, with leave of the court, supply a competent assistant or substitute stenographer temporarily, in his or her place. Each stenographer and assistant shall be competent in the practice of his art, and shall sign, and file with the prothonotary or clerk of the court, an oath of office that he or she will perform his or her duties with fidelity.

Section 2. It shall be the duty of the stenographer or assistant to take full stenographic notes of the testimony, the judge's charge, if any, the rulings on any question arising, and every order or remark relating to the case, made by the judge in the presence of the jury during jury trials, if requested to do so by counsel for either party, at the time such order or remark is made, and without leave of court being required, and every exception taken to such charge, rulings, orders or remarks, also without leave of the court being required for that purpose; and with like effect as if each exception was duly allowed and a bill of exceptions sealed by the trial judge, on request duly made. No exception to the charge shall be noted which is not stated before the jury render their verdict.

Section 3. Upon the order of the court or the request of counsel in the cause, or either of them, the stenographic notes shall be written out in longhand or on the typewriter, and, with copies of the papers offered in evidence and admitted or rejected, shall be served and filed as hereinafter set forth; and shall be certified by the stenographer, in case of jury trials, as follows:

I hereby certify that the above and foregoing is a true and correct transcript of my stenographic notes taken during the trial of the above case, and contains all the evidence taken or offered, all the rulings and the charge of the trial judge, every order or remark relating to the case made by him in the presence of the jury, which counsel for either party requested should be taken down, and every exception taken to such charge, rulings, orders, or remarks.

....., Official Stenographer.

And shall also be certified by the trial judge as follows:

I hereby certify that the foregoing record of the trial of the above case, with the exceptions therein appearing, are hereby approved by me, and ordered to be filed, with the same effect as if bills of exception were duly taken, sealed and filed.

....., Judge.

Section 4. Upon request made, as provided in section three, of this act, three copies shall be made of such stenographic notes, and of the papers offered in evidence and admitted or rejected; one of which

shall be given to counsel or parties on each side of the case, before the next session of the court after the taking thereof, if the trial proceeds at such next session, and, if not, then when it does so proceed, or when the third copy is certified and filed, as hereinafter set forth; and the third copy, certified as above, shall be filed of record in the case, within two week after the trial is ended, unless the case is settled, the jury disagree, a juror be withdrawn, or, with the consent of both sides, the Court excuses the further transcribing of the notes. Such copy when certified and filed, as aforesaid, shall be held to be a part of the record for the purposes of review upon appeal, and the best authority in any matter of dispute; and the same, or a copy thereof duly certified as is the original, or by the clerk or prothonotary of the court, shall be treated as prima facie correct, in whole or in part, as the case may be, as showing what was testified to by any witness therein, or what was in fact decided in that case, without further proof and without the necessity for calling the stenographer to prove the accuracy of his notes. But, except on an appeal from the judgment or decree following the trial in which they were taken, evidence may be offered to falsify or sustain their correctness, as in other cases.

Section 5. The said stenographer or stenographers shall also write out for the judges of the court, whenever requested so to do, the adjudications in equity and orphans' court cases, and the opinions filed in any cause, and shall furnish a copy thereof to each side, and a third copy to the court itself, for filing.

Section 6. In all other proceedings, where by law any Court is required to appoint a stenographer to take testimony to be reported to the Court, three copies shall be made, served, certified, by the stenographer, and filed in the manner hereinbefore set forth.

Section 7. The said stenographer or stenographers shall receive as compensation for their services, to be paid by the county in which they are appointed, the sum of ten dollars per day for each and every day actually spent in equity, orphans' court or jury trials; the sum of two dollars per hour for each hour, or part thereof, actually spent in other matters herein provided for, excluding, however, the time spent in transcribing their notes; and, in addition, for the three copies written out, served and filed, a sum to be fixed by the court, but not exceeding thirty-five cents for each hundred words of one such copy. If they supply additional copies to parties or counsel, which copies have been or are written out at the same time as the three copies above provided for, each additional copy shall be supplied for not exceeding five cents for each hundred words, to be paid by the party ordering the same.

Section 8. It shall be the duty of the trial judge in the courts of Quarter Sessions of the Peace, Oyer and Terminer and General Jail Delivery to appoint said stenographer or stenographers, when requested by the Commonwealth or any defendant or defendants, to take full stenographic notes, and transcribe the same under the foregoing provisions of this act.

Section 9. All acts of Assembly and parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 28, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 86, entitled "An act relating to the appointment of official stenographers and assistants in the courts of this Commonwealth; prescribing their qualifications, duties and compensations, the time and effect of taking exceptions during trials, the certificates to be made in regard to the transcribed notes of trials, and making their transcribed and certified notes conclusive on appeals and prima facie evidence in other respects."

Section two of this act provides "it shall be the duty of the stenographer or assistant to take full stenographic notes of the testimony, the Judge's charge, if any, the rulings on any question arising, and every order or remark relating to the case, made by the Judge in the presence of the jury during jury trials, if requested to do so by counsel for either party at the time such order or remark is made, and without leave of Court being required, and every exception taken to such charge, rulings, orders or remarks, also without leave of the Court being required for that purpose, and with like effect as if each exception was duly allowed and a bill of exceptions sealed by the trial judge, on request duly made. No exception to the charge shall be noted which is not stated before the jury render their verdict."

Under our system of government, power is divided by the Constitution upon certain lines, which are therein defined, among three departments,—the legislative, executive and the judicial. If either department attempts to encroach upon the province of one of the others, it is in effect an attack upon the whole system. Such encroachments have been the fruitful source in all times past of the failure and overthrow of governments. Each department ought to be especially careful to refrain from interfering with the duties imposed upon the other departments. This bill, if it should become a law, would be an attempt upon the part of the Legislature and the Governor to exercise control over the courts, and to take away a part of that power which has been given to them by the Constitution. It is based upon a misunderstanding of the relation of a stenographer to the court. A court stenographer is a modern kind of clerk, whose duty it is to make a record of the proceedings which occur before the court, subject to the authority and under the direction of the court. This bill would make of him a kind of judicial officer, and in some respects would put him above the court itself. He is to determine, as matter of law, whether an order or remark made by the judge is one "relating to the case." He is to determine, as a matter of fact, whether an order or remark made by the judge is made "in the presence of the jury." Under our system of jury trials, an exception to a ruling of the judge is asked for and is allowed by the judge trying the case. Under the provisions of the bill, the stenographer is authorized to note exceptions "without leave of the court being required." Manifestly these provisions

are intended in certain ways to give the stenographer authority over and beyond that of the court itself. It is directed that the stenographer shall note no exception which is not stated before the jury render their verdict. Should the judge allow an exception to the charge, under these circumstances, the stenographer is to make no note of it. In other words, he is not to perform his functions as a clerk, since in that event something will have occurred of which he makes no record. In every judicial tribunal the judge determines whether or not the request for an exception is made at too late a time. The effect of this direction would be to transfer the authority vested in the court to its clerk. It may be that there have been times when judges have abused the power which is given them, but such power has to be vested somewhere and nothing would be gained by transferring it from the judge, where it belongs, to a clerk, who, in all probability, would be incompetent and unable to exercise such authority for the benefit of the administration of justice. If judges are occasionally arbitrary, stenographers are occasionally mistaken. The principles of the administration of justice are unknown to them, and even with the language in which those principles are expressed they are usually unfamiliar. We may well look with dread upon a situation wherein the rights of life or of property may be determined by the failure of a stenographer to accurately hear or properly understand the remarks made by a judge. It is well to have court stenographers, and to pay them sufficient compensation, but they ought to be left subject to the control of the courts in which they serve.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 12.

AN ACT

For the prevention of Idiocy.

Whereas, Heredity plays a most important part in the transmission of idiocy and imbecility: therefore,

Section 1. Be it enacted, &c., That on the first day of July after the passage of this bill, it shall be compulsory for each and every institution in the State, entrusted exclusively or especially with the care of idiots and imbecile children, to appoint upon its staff at least one skilled neurologist and one skilled surgeon, of recognized ability, whose duty it shall be, in conjunction with the chief physician of the institution, to examine the mental and physical condition of the inmates.

If, in the judgment of this Committee of Experts and Board of Trustees, procreation is inadvisable, and there is no probability of improvement of the mental condition of the inmate, it shall be lawful for the surgeon to perform such operation for the prevention of procreation as shall be decided safest and most effective; but this operation shall not be performed except in cases that have been pronounced non-improvable, after one year's test in institution.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 30, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 35, entitled "An act for the prevention of idiocy."

This bill has, what may be called with propriety, an attractive title. If idiocy could be prevented by an act of Assembly, we may be quite sure that such an act would have long been passed and approved in this State, and that such laws would have been enacted in all civilized countries. The subject of the act is not the prevention of idiocy, but it is to provide that in every institution in the State, entrusted with the care of idiots and imbecile children, a neurologist, a surgeon and a physician shall be authorized to perform an operation upon the inmates "for the prevention of procreation." The title is imperfect because it does not clearly set forth this purpose. What is the nature of the operation is not described, but it is such an operation as they shall decide to be "safest and most effective." It is plain that the safest and most effective method of preventing procreation would be to cut the heads off the inmates, and such authority is given by the bill to this staff of scientific experts. It is not probable that they would resort to this means for the prevention of procreation, but it is probable that they would endeavor to destroy some part of the human organism. Scientists, like all other men whose experiences have been limited to one pursuit, and whose minds have been developed in a particular direction, sometimes need to be restrained. Men of high scientific attainments are prone, in their love for technique, to lose sight of broad principles outside of their domain of thought. A surgeon may possibly be so eager to advance in skill as to be forgetful of the danger to his patient. Anatomists may be willing to gather information by the infliction of pain and suffering upon helpless creatures, although a higher standard of conduct would teach them that it is far better for humanity to bear its own ills than to escape them by knowledge only secured through cruelty to other creatures. This bill, whatever good might possibly result from it if its provisions should become a law, violates the principles of ethics. These feeble-minded and imbecile children have been entrusted to the institutions by their parents or guardians, for the purpose of training and instruction. It is proposed to experiment upon them, not for their instruction, but in order to help society in the future. It is to be done without their consent, which they can not give, and without the consent of their parents or guardians, who are responsible for their welfare. It would be in contravention of the laws which have been enacted for the establishment of these institutions. These laws have in contemplation the training and the instruction of the children. This bill assumes that they cannot be so instructed and trained. Moreover, the course it is proposed to pursue would have a tendency to prevent such training and instruction. Everyone knows, whether he be a scientist or an ordinary observer, that to destroy virility is to lesson the capacity, the energy and the

spirit which lead to effort. The bill is, furthermore, illogical in its thought. Idiocy will not be prevented by the prevention of procreation among these inmates. This mental condition is due to causes many of which are entirely beyond our knowledge. It existed long before there were ever such inmates of such institutions. If this plan is to be adopted, to make it effective it should be carried into operation in the world at large, and not in institutions where the inmates are watched by nurses, kept separate, and have all the care which is likely to render procreation there very rare, if not altogether impossible. In one of these institutions, I am reliably informed, there have only been three births in ten years. A grave objection is that the bill would encourage experimentation upon living animals, and would be the beginning of experimentation upon living human beings, leading logically to results which can readily be forecasted. The chief physician, in charge at Elwyn, has candidly told us, in an article recently published upon "Heredity," that "Studies in heredity tend to emphasize the wisdom of those ancient peoples who taught that the healthful development of the individual and the elimination of the weakling was the truest patriotism—springing from an abiding sense of the fulfillment of a duty to the State." To permit such an operation would be to inflict cruelty upon a helpless class in the community, which the State has undertaken to protect. However skillfully performed, it would at times lead to peritonitis, blood poisoning, lockjaw and death.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 13.

AN ACT

To repeal an act, entitled "An act relating to the roads of Birmingham township, Chester county," approved the ninth day of April, Anno Domini one thousand eight hundred and seventy-two.

Section 1. Be it enacted, &c., That an act, entitled "An act relating to the roads of Birmingham township, Chester county," approved the ninth day of April, Anno Domini one thousand eight hundred and seventy-two, which reads as follows:

"Section 1. That the number of supervisors of said township shall be three, of whom one shall be elected annually, for the term of three years.

"Section 2. The supervisors shall divide the roads of said township into convenient sections, not exceeding one mile in length; they shall give ten days' written or printed notice of the sale thereof, by notice put up in at least ten of the most public places in said township, and shall sell the repair thereof to the lowest best bidder for the period of three years; supervisors may purchase sections; purchasers shall give security if required by the supervisors.

"Section 4. In case complaint shall be made of the condition of the roads, the supervisors shall not be liable for the non-repair thereof until fifteen days' written notice shall have been given them,

specifying the particular section or sections in want of repair, and any such prosecution must be commenced within thirty days from the time such notice was given.

"Section 5. In case any contractor, after ten days' notice of the condition of the roads, fails to repair his section or sections, the supervisors may repair the same, and recover from any such defaulting contractor the cost of such repair, by action of debt or otherwise.

"Section 6. The supervisors shall have the right to sell, at public sale, to the lowest bidder, the opening of new roads.

"Section 7. All special laws relating to the repair of the roads of said township are hereby repealed."

Be and the same is hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 30, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 75, entitled "An act to repeal an act entitled 'An act relating to the roads of Birmingham township, Chester county,' approved the ninth day of April, Anno Domini one thousand eight hundred and seventy-two."

This bill proposes to repeal the act of April ninth, one thousand eight hundred and seventy-two, and, in reciting this act, entirely omits section three. What would be the effect of this omission should the bill become a law is uncertain. If the effect would be to repeal the entire act, with the exception of this section, it would leave the section as a mere fragment upon the statute book, and perhaps lead to contention among the supervisors of roads for the township.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 14.

AN ACT

Declaring valid and indefeasible, as to any right of escheat in this Commonwealth, the title to real estate composing its manufacturing establishment, taken by a foreign corporation engaged in this Commonwealth in the business of manufacturing any product of iron or steel, in its corporate name, which has mortgaged the same to secure its bonds.

Section 1. Be it enacted, &c., That whenever any company, incorporated under the laws of any other State, engaged in the manufacture of any product of iron or steel within this State, shall have taken title in its corporate name to real estate whereon it maintains its manufacturing establishment, and shall have mortgaged such real estate and issued bonds secured thereby, the title of such company to such real estate is hereby declared valid and indefeasible, as to any right of escheat in this Commonwealth: Provided, how-

ever, That said company shall have complied in all respects with the provisions of the revenue laws of this Commonwealth relating to foreign corporations: And provided further, That nothing herein contained shall be deemed to prevent or relieve any real estate, taken and held by any such foreign corporation under the provisions of this statute, from being taxed in like manner with other real estate in this Commonwealth: And provided further, That no such foreign corporation shall be entitled to employ any greater amount of capital in such business in the State than the same kind of corporations organized under the laws of this State are entitled to employ: And provided further, That every such foreign corporation, doing business as aforesaid in this Commonwealth, shall be liable to taxation to an amount not exceeding that imposed on corporations for similar purposes under the laws of this State; and every such foreign corporation, taking the benefit of this act, shall make the same returns to the Auditor General that are required by law to be made by corporations of this State, under similar circumstances: And provided further, That such foreign corporations shall have complied in all respects with the provisions of an act, entitled "An act to prohibit foreign corporations from doing business in Pennsylvania without having known places of business and authorized agents," approved the twenty-second day of April, Anno Domini one thousand eight hundred and seventy-four.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 30, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 109, entitled "An act declaring valid and indefeasible, as to any right of escheat in this Commowealth, the title to real estate composing its manufacturing establishment, taken by a foreign corporation engaged in this Commonwealth in the business of manufacturing any product of iron or steel, in its corporate name, which has mortgaged the same to secure its bonds."

This bill provides "That whenever any company, incorporated under the laws of any other State, engaged in the manufacture of any product of iron or steel within this State, shall have taken title in its corporate name to real estate whereon it maintains its manufacturing establishment, and shall have mortgaged such real estate and issued bonds secured thereby, the title of such company to such real estate is hereby declared valid and indefeasible, as to any right of escheat in this Commonwealth." It is of a like character with several bills which were disapproved at the last session of the Legislature. (See Vetoes, pages 22, 116-117.) The act of April 29, 1874, passed in compliance with the requirements of the Constitution, placed certain restrictions upon the organization of corporations which were intended for the benefit of the stockholders and the community. Among these restrictions was one which prevented the granting of a charter unless a certain proportion of the capital has been previously paid into the treasury of the corpora-

tion. Since that time, many persons doing business in this State have sought to escape from these limitations by securing charters in other States, where no such limitations exist. There are other statutes in this Commonwealth which prevent foreign corporations from owning real estate within the Commonwealth. To permit corporations, organized for the reasons above given in other States, to hold real estate and do business here, would be, in effect, to nullify, indirectly, our own laws. This bill presents to such corporations an easy means of escape from the disabilities imposed upon them. Its terms are not confined to cases where foreign corporations have heretofore purchased real estate and have issued bonds secured by mortgages, but they extend to the future as well, and, therefore, any foreign corporation which may hereafter come into this State and buy lands for the purpose of the manufacture of the product of iron or steel, and which shall thereupon issue bonds secured by a mortgage, is given, in this indirect manner, the right to purchase and hold such real estate. It does not seem wise on the part of the Commonwealth to surrender, without consideration, all the rights of escheat in such cases which may have occurred in the past, and which may occur in the future, and without regard to what may be the attendant circumstances.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 15.

AN ACT

To provide for the adoption of cast off and abandoned infants.

Section 1. Be it enacted, &c., That in any case where an infant child heretofore has been, or hereafter may be, cast off and abandoned by its parent or parents, and surreptitiously left at the door or on the premises of any person, whereby its parentage may not be certainly known, it shall be lawful for any person who may take in and care for such abandoned child, and is desirous of adopting the same as his or her heir, or as one of his or her heirs, to present his or her petition to the court of common pleas of the county where he or she may reside, setting forth, under oath, the facts and circumstances of the abandonment of such child, the care taken of it, the petitioner's desire to adopt the same, and that he or she will perform all the duties of a parent to such child; and such court, if satisfied that the welfare of such child will be promoted by such adoption, may decree that such child shall assume the name of the adopting parent, and have all the rights of a child and heir of such adopting parent, and be subject to the duties of such child, of which the record of the court shall be sufficient evidence, and he, she or they shall, respectively, inherit from and through each other as if all had been the lawful children of the same parent.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 140, entitled "An act to provide for the adoption of cast off and abandoned infants."

The entirely proper purpose of this bill is already provided for under existing laws.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 16.

AN ACT

To prohibit the use of any adulteration or imitation of dairy products in any charitable or penal institution; being supplementary to an act, entitled "An act for the protection of the public health, and to prevent adulteration of dairy products and fraud in the sale thereof," approved May twenty-one, Anno Domini one thousand eight hundred and eighty-five, and to prescribe penalties and punishment for violations, and the means and method of procedure for the enforcement, thereof.

Section 1. Be it enacted, &c., That it shall not be lawful for any charitable or penal institution, in the State of Pennsylvania, to use or furnish to its inmates any substance the manufacture or sale of which is prohibited by section one of the act, entitled "An act for the protection of the public health, and to prevent adulteration of dairy products and fraud in the sale thereof," approved May twenty-first, Anno Domini one thousand eight hundred and eighty-five.

Section 2. That any officer, agent, steward, or other official of any such charitable or penal institution, who shall buy any substance the manufacture or sale of which is prohibited by section one of the said act of May twenty-one, Anno Domini one thousand eight hundred and eighty-five, for use in such charitable or penal institution, or who shall knowingly cause such substance to be used by the inmates of such charitable or penal institution, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding two years, for each offense, or either or both, at the discretion of the court.

Section 3. Every person who shall sell or offer for sale to any officer, agent, steward, or other official of any charitable or penal institution any substance the manufacture or sale of which is prohibited by section one of the said act of May twenty-first, Anno Domini one thousand eight hundred and eighty-five, for use in such charitable or penal institution, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or either or both, at the discretion of the court.

Section 4. The Dairy and Food Commissioner shall be charged

with the enforcement of all the provisions of this act; and all penalties which may be recovered, and all fines which may be paid, in any proceeding or proceedings to enforce the provisions of this act, shall be paid to the Dairy and Food Commissioner, or his agent, and by him paid into the State Treasury; and the money so paid shall constitute a special fund, for the use of the Department of Agriculture in enforcing the pure food laws of the Commonwealth, and may be drawn out upon warrants signed by the Dairy and Food Commissioner or the Secretary of Agriculture, and approved by the Auditor General.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 153, entitled "An act to prohibit the use of any adulteration or imitation of dairy products in any charitable or penal institution; being supplementary to an act, entitled 'An act for the protection of the public health, and to prevent adulteration of dairy products and fraud in the sale thereof,' approved May twenty-one, Anno Domini one thousand eight hundred and eighty-five, and to prescribe penalties and punishment for violations, and the means and method of procedure for the enforcement thereof."

This bill is conceived in a spirit of violence. It provides that any officer of a charitable or penal institution who shall "buy any substance the manufacture or sale of which is prohibited by section one of the act of May twenty-one, one thousand eight hundred and eighty-five," and every person who sells it to him, shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding two years, for each offense, at the discretion of the court. The recital of the act of May 21, 1885, is incorrect. The purpose of that act was not to prevent the manufacture and sale of the substance described in it, but to prevent their manufacture and sale "with intent to sell the same as an article of food." There is no suggestion of this fundamental thought in the present bill. If the oleaginous substances therein described were used in an institution for cleaning spoons, it would be an offense within the terms of the act. The law recognizes a well defined difference between the principles which should be applied to vendors and vendees. The vendor is presumed to know the nature of the article which he sells. A vendee may or may not know it. He may be deceived. He may rely upon information which turns out to be false. To make the mere fact of purchase, without any evidence from which knowledge or intention may be inferred, a crime, subject to severe punishment, would be unjust. The penalty appears to be disproportionate to the offense, even though clearly established. Imprisonment for two years is a severe punishment for the purchase of "any oleaginous substance other than butter." In the original act the maximum penalty is $300, and the maximum period of imprisonment is thirty days. When we consider that the manufacturer, who must know

all about it, is only to be imprisoned for thirty days, and the purchaser, who may know nothing about it, is to be confined for two years, the injustice becomes plain.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 17.

AN ACT

Providing for the enlargement of cemeteries already existing, and located outside the corporate limits of cities, towns and boroughs, by increasing the acreage thereof for burial purposes.

Section 1. Be it enacted, &c., That whenever the board of directors or the board of managers of any incorporated cemetery association in this Commonwealth, the land and the property of which is situated outside the corporate limits of cities, towns and boroughs, shall be unable to procure additional land for the enlargement of such cemetery, by increasing the acreage thereof as they may deem expedient, by agreement with the owner or owners of the land at a fair, just and quitable price, it shall and may be lawful for such board of directors or board of managers, in behalf of such cemetery association, to enter upon and occupy sufficient land for burial purposes; and for all damages done and suffered or which shall accrue to the owner or owners of such land, by reason of the taking of the same for the purpose aforesaid, the property and funds of such cemetery association shall be pledged and deemed as security. And it shall and may be lawful for the court of common pleas of the proper county, on application thereto by petition, either by the said cemetery association, through the president and secretary of the board of directors or the board of managers, or by the owner or owners of said land, or any of them, in behalf of all, to appoint a jury of viewers, consisting of three discreet and disinterested citizens of said county, who shall not reside or own property within the distance of five miles of such land taken, as aforesaid, and appoint a time, not less than twenty nor more than thirty days thereafter, for said viewers to meet upon said land, of which time and place ten days notice shall be given by the petitioners to the said viewers and to the other party. And the said viewers, or any of them, having been first duly sworn or affirmed faithfully, justly and impartially to decide and a true report to make concerning all matters and things to be submitted to them, and having viewed the premises, they shall establish and determine the quantity and value of such land so taken, to be used for the purposes aforesaid; and after having a true and just valuation and appraisement of the amount of damages, if any, which has or may be sustained, and to whom payable, and make report thereof to the said court. And if damages be awarded, and the report confirmed by the said court, judgment shall be entered thereon, and, if not paid within thirty days after the entry of said judgment, execution to enforce the collection thereof may be issued, as in other cases of judgment. And each viewer shall be entitled

to one dollar and fifty cents per day for every day necessarily employed in the performance of the duties herein prescribed, to be paid by the party petitioning: Provided, That either party shall have the right to have reviewers appointed by the court. And further, it is hereby provided that this act shall not apply to any cemetery association incorporated as a stock company, with its capital stock divided into shares, to be sold to lot holders and others for gain, and shall not apply to cemeteries situate within the corporate limits of cities, towns and boroughs, nor to the creation or making of new cemeteries, nor to enlarging cemeteries located on coal or mineral lands, that are likely to be disturbed by mining operations, nor in townships of the first class.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 168, entitled "An act providing for the enlargement of cemeteries already existing, and located outside the corporate limits of cities, towns and boroughs, by increasing the acreage thereof for burial purposes."

The protection of the right of private property is one of the chief purposes for which governments exist. John Hampden aroused the English people to a life-and-death struggle with the Stuarts, over the question of ship-money, and John Dickinson aroused the American people, in our Revolution, to a like struggle over the proposition of the English government to take a very small proportion of what belonged to them, through taxation. So important has this right been regarded that our own Constitution declares that all men have the indefeasible right "of acquiring, possessing and protecting property," and further declares that this right "shall forever remain inviolate." The only exception is when the Commonwealth, exercising the power of the State for the public good and for the public use, intervenes.

There is grave danger of our carelessly frittering away that for which Washington fought and which cost Charles Stuart his head. It has become a frequent device, when one man wants to get possession of the property which belongs to another, to organize a corporation, and persuade the Commonwealth to surrender to this corporation a power which ought never to be exercised except for the purposes of the Commonwealth itself, looking to the good of the people. This bill proposes to give to another class of corporations the right of eminent domain. It provides that in certain cases incorporated cemetery associations may exercise this unusual power. If an incorporated cemetery association should desire to extend their lands, there seems to be no good reason why they should not buy them and pay for them, as all individuals conducting business interests are compelled to do. A careful reading of the bill makes it manifest that it is an effort to aid one of two parties in a controversy over land values, in a particular case, and, therefore, that it

is special legislation. The numerous exceptions made in it and their character indicate how uncertain is the ground upon which the bill is based. It is to apply only to cemeteries already existing. If such authority is to be given, why should it not be given to corporations hereafter to be created, as well as to those already in existence? It is provided "that this act shall not apply to any cemetery association incorporated as a stock company, with its capital stock divided into shares to be sold to lot holders or others for gain." In all probability, in the particular case to which this bill is intended to apply, the lots are sold, though the stock is not and is held by a few individuals. It is further provided that it "shall not apply to cemeteries situate within the corporate limits of cities, towns and boroughs." Cemeteries are apt to be situated just outside the limits of cities, and are, therefore, liable to be soon included, even if not so situated at the present time. It is not to extend to "new cemeteries." It is not to apply to cemeteries "in townships of the first class." It is not to apply to cemeteries "located on coal or mineral lands." Why is this grace accorded to coal or mineral lands, and not to the other great interests of the Commonwealth and its people? The exceptions are numerous, and they may well be extended.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 18.

AN ACT

To provide for the better protection of deer and fawn within this Commonwealth, and prescribing penalties for violation of its several provisions.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be unlawful for more than ten individuals in this Commonwealth to unite or join themselves together, by agreement or in any other manner, either as watchers or as drivers, or in any other capacity, in hunting deer or fawn within this Commonwealth; and each person engaged in such hunt shall be guilty of a misdemeanor, and, upon conviction thereof before any alderman or justice of the peace of the county wherein the offence was committed, shall be subject to payment of a fine of ten dollars ($10.00) dollars, for each day thus engaged in hunting. That in all prosecutions for violations of any of the provisions of this act, the Commonwealth shall have the right to call such person or persons from among the accused, as may seem best, as a witness or witnesses, as the case may be; and the fact that any one or more persons shall be so called and used as a witness or witnesses shall, in all ways, be exonerated of any charge preferred, or that might be preferred, for that specific offense, and shall not prevent any person or persons, thus set aside, from refusing to testify upon the ground of self-incrimination.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 107, entitled "An act to provide for the better protection of deer and fawn within this Commonwealth, and prescribing penalties for violation of its several provisions."

The purpose of this bill is to make it a misdemeanor for more than ten individuals to unite in hunting deer or fawn. This purpose is not at all clearly expressed. The bill then provides, "that in all prosecutions for violations of any of the provisions of this act, the Commonwealth shall have the right to call such person or persons from among the accused, as may seem best, as a witness or witnesses, as the case may be; and the fact that any one or more persons shall be so called and used as a witness or witnesses shall, in all ways, be exonerated of any charge preferred, or that might be preferred, or that might be preferred, for that specific offence, and shall not prevent any person or persons thus set aside from refusing to testify upon the ground of self-incrimination." It seems impossible to determine what is meant by this provision.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 19.

AN ACT

For the purpose of securing better police protection for the rural districts of this Commonwealth, the creation and incorporation of police districts, and the establishment of rural police.

Section 1. Be it enacted, &c., That any number of contiguous boroughs or townships, or boroughs and townships, either or both, within this Commonwealth, but not exceeding ten such districts in all, may unite for the purpose of securing better police protection, and may be incorporated into a police district upon obtaining the approval of the court of quarter sessions, as hereinafter provided.

Section 2. Proceedings for the purpose of aforesaid shall be begun by resolution, adopted by the borough council of each and every borough, by the board of commissioners of each and every township of the first class, and by the board of supervisors of each and every township of the second class, desiring to unite as aforesaid.

Section 3. Upon the adoption of such resolution, the burgess of each and every borough, the board of commissioners of each and every township of the first class, and the board of supervisors of each and every township of the second class, so desiring to unite, as aforesaid, shall jointly petition the court of quarter sessions of the county in which they are situate, to incorporate the said borough or boroughs in township or townships into a police district, to be known as police district number ——, of ——— county. Said peti-

tion must be duly filed with the clerk of the court, at least four weeks prior to the return day of the rule to show cause why the prayer of the petition shall not be allowed.

Section 4. Upon receipt of the said petition, the court of quarter sessions shall grant a rule to show cause why the prayer of the said petition shall not be allowed and the said police district be incorporated, returnable on the first day of the term next ensuing the date of the filing of the petition; and the petitioner shall advertise the said petition and the date of the return of the rule, once a week, for at least three weeks prior to the said return day, in at least two newspapers published or commonly circulated in the boroughs or townships to be affected.

Section 5. Any taxpayer or taxpayers (male or female) of the boroughs and townships may appear in support of the rule by supplemental petition, or may traverse the allegation of the petition by answer, in either case filed at least five days before the return day of the rule. Any number of taxpayers may join in one petition or in one answer.

Section 6. Upon return day of the rule the said court of quarter session shall examine fully and carefully into the merits of the petition, and shall hear all the evidence that may be presented, by affidavits, depositions or viva voce testimony, in support or in contravention of the allegation of the petition; and each and every taxpayer (male or female) of the district affected shall have the right to appeal, individually or collectively, in person or by counsel, in contest or support of the petition.

Section 7. If, after the hearing as aforesaid, court shall deem it advisable to grant the prayer of the said petition, it shall thereupon declare the borough or boroughs in township or townships, which have joined in the said petition, to be incorporated as a police district, under the style of police district No. ——, of ——— county; which said police district, so incorporated, shall have and possess the powers hereinafter set forth, and no other; and shall be goverened and controlled as follows:

Section 8. The powers of the said district shall be limited to the affording and assuring of proper police protection for the safety of the persons and property of the inhabitants therein, and these powers shall be exercised by a board of three commissioners, residents of the boroughs or townships included in the district, of whom not more than two shall be residents of the same borough or township. The term of office of the members of the said board shall be three years, beginning April first, and they may be removed for sufficient cause, by the court at any time. Vacancies in the said board, due to death, disability or removal, shall be filled by election of the councils of each and every borough, of the board of township commissioners of each and every township of the first class, and of the board of supervisors of each and every township of the second class, included within the proper police district, in gerenal convention met.

Section 9. Male taxpayers only shall be eligible to the office of police commissioner created by this act; and no person who holds any State, county, borough or township office, or any officer under the United States Government, or who is in the employ of the

United States Government, or of this Commonwealth, or of the county in which the said district is located, or of any borough or township or incorporated district included within the said district, shall be eligible to the office of police commissioner therein.

Section 10. The said board of police commissioners shall be elected by vote of the electors of all the boroughs and townships included within the said district, at the February election, and their election shall be subject in all respects to the laws governing the February election, except as hereinafter provided. The returns shall be computed by a return board, consisting of the judges of all the election districts included in the said police district, who shall meet for that purpose on the day after the election, at the most central polling-place within the said police district. The candidates having the highest number of votes, respectively, shall be deemed as elected, notwithstanding that they may have received a majority of all the votes cast. In case of a tie, no matter how many candidates may be tied, the right of the office shall be determined by lot; and in case the tie affects the election of more than one commissioner, successive lots shall be taken until the election of a full board is determined. Lots to be cast within two days after the result of the election is announced.

Section 11. The said board of police commissioners shall organize within one week after the first day of April, and shall proceed to elect one of their number as president. They shall appoint a secretary, who shall act as treasurer of the board, and who shall be a member of the board, and shall fix his salary. They shall hold stated meetings, at least once a month, and special meetings at the call of the president or of any two members of the Board. Two members of the board shall constitute a quorum for the transaction of business, except the appointment of policemen. The commissioners shall receive no compensation for their services under this act.

Section 12. The said board shall have power to commission a competent number of policemen to afford the necessary police protection throughout the district, and to provide police headquarters and a lockup, and all such other things as are necessary for the proper conduct of a police department, and generally, to take all needful means for securing the safety of persons and property within the township, including the arrest and confinement of vagrants, who, if arrested under the authority of the police district, may be compelled to work on the roads of the township or borough in which they are arrested. The powers of the district policemen, so commissioned, shall be the same as are now conferred upon police officers in townships of the first class, and their jurisdiction shall be confined to the district for which they are appointed. They shall have no civil powers or jurisdiction, and their jurisdiction in serving warrants shall be limited to cases in which the constables within the district are incompetent or unable to act.

Section 13. The district policemen shall receive such weekly or monthly compensation as shall be fixed by the board, and no other fees or emoluments whatever. No policemen shall receive or solicit a reward, gift or valuable consideration for performing or refrain-

ing to perform any official duty, upon the penalty of immediate dismissal.

Section 14. No district policemen, appointed under this act, shall hold any other office or employment under the Commonwealth, or any city, county or borough or township or incorporated district therein, or under the United States, and their commission shall be for a period of one year only, and subject to good behavior. They may be dismissed by the board upon sufficient cause shown; but shall always be entitled to a public hearing and an opportunity to defend themselves against any charges before being dismissed.

Section 15. The maximum number of policemen which may be appointed in the district may be stated in the petition, but the number so stated may be increased or decreased, at any time, upon the unanimous consent of the proper municipal authorities of the boroughs or townships included within the district, given at a joint meeting.

Section 16. It shall be the duty of the board to prepare annually, a sum as may be for their organization, an estimate in detail of the expenses of maitenance of the police force for the ensuing year, including the erection of necessary buildings and the purchase of necessary paraphernalia, exclusive of uniforms, and to forward said statement to the borough councils, commissioners and supervisors of the boroughs and townships composing their district, on or before the first day of June in each year; and the board shall, in such statement, apportion the aforesaid amounts among the said boroughs and townships, in proportion to the assessed valuation of the real estate situated therein. The proportion of these expenses, so allotted, shall be a charge upon the respective borough or township; and it shall be, and it is hereby made, the duty of the council, commissioners or supervisors of the aforesaid borough and townships to levy a cash tax, which shall be sufficient to meet the amount apportioned to them by the board. And upon requisition, duly made and signed by the president of the board and attested by the secretary thereof, the proper borough and township authorities shall issue their warrant to the borough or township treasurer, directing him to pay over to the board the proceeds of the tax so levied, at such times and in such amounts as may be required by the board. But in case a cash tax for the erection of buildings would impose too heavy a burden for that year, the borough or township authorities may borrow money, and issue bonds therefor, subject to the limitations prescribed by the Constitution and laws of this Commonwealth. The accounts of the board shall be audited by the auditors of all the boroughs and townships included within the district, or a majority of them, in general convention met.

Section 17. In case of the incorporation of any police district, under this act, between the first day of February and the first day of December of any year, the court of quarter sessions shall appoint three commissioners, qualified as aforesaid, to serve as the board of Commissioners for the said district until the next succeeding election, and until their successors are elected and qualified.

Section 18. In case a police district shall be incorporated with less than the maximum number of boroughs and townships, mentioned in section one of this act, any adjoining boroughs or town-

ships may be annexed to the said district, until the maximum number is reached, in the manner provided by the laws of this State for the annexation of townships or parts of townships to boroughs.

Section 19. In case any twenty-five of the taxable inhabitants of a borough or township included in a police district shall present a duly verified petition to the court of quarter sessions, praying that the connection of the said boroughs or townships with the said police district be dissolved, the said court shall order an election on that question, to be held, at any time within six weeks thereafter, by the officers of the regular election and at the usual polling places; at which election all taxpayers, male and female, shall be entitled to vote; and upon a certificate of the return of the said election being duly filed in the said court, the said court shall decree that the said borough or townships shall no longer form part of the said police district, or shall dismiss the petition, as the case may be.

Section 20. All laws or parts of laws inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 212, entitled "An act for the purpose of securing better police protection for the rural districts of this Commonwealth, the creation and incorporation of police districts, and the establishment of rural police."

This bill seeks to provide for a very proper subject of legislation, but has not been carefully considered. It arranges a system for the organization of boroughs and townships into police districts, and provides for the appointment of policemen within such districts. Section two begins, "Proceedings for the purpose of aforesaid shall be begun by resolution, adopted by the borough council." There is here an evident redundancy of words. Section three provides for a petition to the court of quarter session of the county "in which they are situate, to incorporate the said borough or boroughs in township or townships into a police district." There is here an evident misuse of words. The same section further provides, "said petition must be duly filed with the clerk of the court at least four weeks prior to the return day of the rule to show cause why the prayer of the petition shall not be allowed." The date of the filing of the petition is, therefore, to be determined by reference to a future uncertain event, unknown at the time the petition is filed. Section four then proceeds to direct that the court shall grant a rule to show cause why the prayer of the petition shall not be allowed, "returnable on the first day of the term next ensuing the date of the filing of the petition." Assuming that the first day of the next term is the first Monday of June, and that the petition should be filed upon some day late in the month of May, the four weeks required by section three will not have intervened. The correct plan would have been to allow the petition to be filed, and then to fix a time thereafter when an application for a rule may be made.

Section seven provides that it shall be the duty of the court, if they shall deem it advisable, after a hearing, to "declare the borough or boroughs in township or townships, which have joined in the said petition, to be incorporated as a police district." Here is again an evident misuse of words. Section ten provides, "the candidates having the highest number of votes, respectively, shall be deemed as elected, notwithstanding that they may have received a majority of all the votes cast." From this sentence the word "not" has probably been omitted. In the same section it is directed that, in the event of a tie at the election, this tie is to be overcome by the following method: "lots to be cast within two days after the result of the election is announced." A system is provided, but how it is to be carried into effect is left uncertain. Who is to superintend the casting of the lots, and to ascertain what is the effect of such casting, the bill does not provide. Section twelve provides that vagrants arrested under the authority of the police district "may be compelled to work on the roads of the township or borough." This is an innovation, and perhaps a very proper one in our present system of jurisprudence, but this important matter is not referred to in the title of the bill. Section nineteen provides that, at an election ordered by the court, "all taxpayers, male and female, shall be entitled to vote." This is likewise an innovation of an important character to which there is no reference in the title. Section fifteen provides that the number of policemen may be increased or decreased at any time "upon the unanimous consent of the proper municipal authorities of the boroughs or townships." Who are the proper municipal authorities to determine this fundamental question, the bill does not provide. Section sixteen directs, "it shall be the duty of the board to prepare annually, a sum as may be for their organization, an estimate in detail of the expenses of maintenance." There is no intelligent thought expressed in this combination of words. Section nineteen provides that "upon a certificate of the return of the said election being duly filed in the said court, the said court shall decree that the said borough or townships shall no longer form part of the said police district, or shall dismiss the petition, as the case may be." No doubt it was intended to provide that if the result of the election should show that the voters had voted in favor of the dissolution, then the court should decree that the borough or townships should no longer form a part of the district, and that if the voters had voted otherwise the petition should be dismissed; but this thought is not expressed. and upon what the decree of the court is to be based does not appear. Throughout the bill there are numerous instances in which, apparently, words have been omitted or misused.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 20.

AN ACT

To provide for the draining of swampy and wet lands, and the assessment and collection of the costs thereof from the owners of the property thus improved.

Section 1. Be it enacted, &c., That upon the petition of twenty, or

of a majority, if a majority is less than twenty, of the owners of wet or swampy lands, belonging to several owners, disjointly forming a continuous swamp or marsh, the court of quarter sessions of the proper county shall appoint a jury of view, consisting of three reputable and disinterested citizens of the petitioners' county, who shall have the power to view the wet or swampy lands described, and, if in their judgment, a drain or drains shall be practicable and would enhance the valuation of the property in said district, they shall proceed to lay out such drain or drains, which may include the lowering and strengthening of the bed of any creek or stream, and remove all obstructions from it by which the waters thereof are thrown back upon the wet or swampy land, measuring the length and ascertaining the depth, as near as may be, with ordinary facilities: Provided, That nothing herein contained be construed to allow interference with dams or other devices for securing water-power, at the time in actual use. They shall also have power, and it shall be their duty, to make a survey of such swampy or wet land, and get its contents, and the quantity owned by each land owner, and make an estimate of the cost of constructing such drain or drains: Provided, however, That notice of the intended application for the appointment of such jury of view shall be published in two newspapers of general circulation in the petitioners' county, at least thirty days previous to the time of making the application, and that like notice, in writing, shall be served upon the county commissioners or proper municipal authorities, at least ten days before making such application; and such petitioners shall serve, or cause to be served, upon the county commissioners or proper municipal authorities a written notice of the time and place of the meeting of such jury of view, at least five days before such meeting shall be held.

Section 2. The said court of quarter sessions may appoint a competent stenographer, to keep a faithful record of all proceedings before the viewers, and to furnish a full copy of all his notes, to be attached to and form part of the record; and shall appoint a reputable person, learned in the law, who shall preside at all meetings of the viewers, to be known as a master, and have the power to determine the admissibility of evidence, and issue of writs of subpoena to compel the attendance of witnesses and the production of papers, and instruct the viewers upon matters of law, to which exceptions may be taken for the purpose of review, but shall not have any vote on any question of fact or value.

Section 3. Before entering upon the discharge of his duties the master shall be sworn or affirmed by the judge appointing him, or by the clerk of the court of quarter sessions, to discharge his duties faithfully and according to the best of his learning and ability; and after being duly sworn or affirmed, he shall, at the first meeting of the viewers, swear or affirm the stenographer to the faithful discharge of his duties, and, thereupon, shall separately swear and affirm each viewer to perform his duties with fidelity and according to his best judgment.

Section 4. The said jury of view shall also estimate the damages sustained by any of the said landowners or any other person by the construction of said drain or drains, and also the proportion of cost of construction to be borne by each owner of such swampy and wet lands.

Section 5. If in the judgment of the jury of view any township, or the roads or bridges thereof, in which such said wet or swampy land or part thereof is situate, will be benefited by the draining of such land, they shall have power to determine what proportion of the expense of draining the same shall be borne by such township; and if the county commissioners of any county in which such land is situate shall determine that the draining of said land, or the lowering or straightening of the bed of any creek or stream, will benefit such county, or lessen the expense of constructing and maintaining county bridges therein, they may make appropriations out of the county funds, to be used for the purpose of defraying a portion of the expense of said draining, or lowering or straightening the bed of any such creek or stream.

Section 6. Such jury of view shall, within thirty days after the appointment thereof, unless in the discretion of the court the time be extended, report to the court appointing the same their action therein.

Section 7. Exceptions may be filed, by any party aggrieved, to the report of such jury of view, within thirty days from the time such report is filed, which exceptions shall be heard by the court in which such report is filed; and said court, after considering such exceptions, may refer the report back to the jury of view, with instructions to take any further proceedings or testimony as the court may deem necessary and proper, or may set the same aside, or may confirm such report; and if no exceptions are filed to any such report, unless appeal is taken as provided in section eight of this act (and in such case the final confirmation of the proceedings shall await the result of the appeal from the assessment, within thirty days from the filing thereof), then such report may be confirmed or dismissed by the court.

Section 8. An appeal to the court of common pleas of the proper county, from the assessment of damages, may be taken by any landowner, or by the county commissioners, or the proper municipal authorities, within thirty days after the approval of the report; and thereupon the court shall direct an issue, which shall be tried by a jury according to the course of the common law as regulated by existing statutes, and judgment entered on the verdict; and the record thereof shall be remitted to the proper court of quarter sessions for further action on the whole case: Provided, however, That the said judgment shall be reviewable by the Supreme Court or Superior Court, upon writ of error, as in other cases. Such appeal shall be accompanied by affidavit that the appeal is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done; and such order shall be made in relation to the costs as to the court shall appear best.

Section 9. Each viewer serving on any such jury of view shall be allowed the sum of two dollars for each day necessarily employed thereon, and the master's compensation shall be fixed by the court; and the warrants shall be drawn by the county commissioners of the proper county, on the treasurer of their county, for the payment of the amounts to which such viewers and master shall be entitled under this act, as well as the stenographer whom the court shall appoint.

Section 10. The county commissioners of any county in which such

land is situate shall, within sixty days after the approval by the court of quarter sessions of the report of such jury of view, advertise in at least two newspapers of general circulation, published in said county, once a week for three consecutive weeks, for sealed proposals for the laying out of such drain or drains and the construction and completion of such work, as in said report shall be provided; and the county commissioners, or a majority of them, shall accept the proposal or proposals deemed most advantageous to the public and to those interested and affected by said work, and shall enter into a contract or contracts with such contractor or contractors. They shall require the contractor or contractors to enter into and acknowledge a bond to such county, with at least two sureties, or some reliable surety company, in a sum or sums equal to twenty per centum of the consideration of such contract or contracts, conditioned for the faithful performance of all the terms and conditions of such contract or contracts, which bond or bonds shall be approved by the county solicitor.

Section 11. Within three months after the completion of the work, the county solicitor of any such county shall enter liens against the properties upon which assessments have been made by the report of said jury of view, which shall then remain in whole or part unpaid, and shall from time to time proceed to collect said assessment, or parts thereof remaining due and unpaid, according to law, together with all accrued interest and legal costs. The total amount of said assessments shall be appropriated to the payment of the contract price of the said work and other necessary expenses therewith connected.

Section 12. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 98, entitled "An act to provide for the draining of swampy and wet lands, and the assessment and collection of the costs thereof from the owners of the property thus improved."

For the reasons given in a message to the Assembly, dated April 27, 1903, disapproving a bill in almost identically the same language, which message is printed among the vetoes of that year, upon page 113, this bill is not approved.

SAML. W. PENNYPACKER.

No. 21.

AN ACT

Granting an annuity to J. H. Pershing.

Whereas, J. H. Pershing, a private of company B., J. R. Oursler, captain, and T. F. Gallagher, colonel, of the Fifty-fourth regiment, Pennsylvania militia, enlisted under a proclamation issued June

fifteenth, one thousand eight hundred and sixty-three, by Abraham Lincoln, President of the United States, calling on A. G. Curtin, Governor of the Commonwealth of Pennsylvania, for fifty thousand militia, while in the service, and while in the line of duty at Camp Brooks, Pennsylvania, in August, one thousand eight hundred and sixty-three, contracted cramp of the stomach and bowels, dysentery and bloody flux, caused by severe hunger, resulting in gastritis, piles, chronic diarrhea and prolapsus-ani, and which have never yielded to medical treatment, affidavits of his captain and ten comrades show said disabilities to be of service origin, being discharged while sick, on the seventeenth day of August, one thousand eight hundred and sixty-three, affidavits of fourteen physicians and twenty-two neighbors show debilitating conditions every year since one thousand eight hundred and sixty-three; that he is now an invalid.

And whereas, said disabilities are increasing with age, causing more or less constant pain, necessitating regular medical treatment, and that, when bedfast, requires an attendant, totally incapacitating him from performing any kind of labor whatever, to obtain a livelihood, not having done a day's work for thirty-two years:

Section 1. Be it enacted, &c., That the State Treasurer be and is hereby directed to place the name of J. H. Pershing, of Greensburg, Pennsylvania, county of Westmoreland, on the lists of pensions for an annuity, increased from the amount granted by the Assembly of one thousand eight hundred and ninety-seven, as per bill number three hundred and eighty-eight (pamphlet laws, pages four hundred and twenty-nine), to the rate given by the medical examining board of thirty dollars per months, commencing the first day of January, one thousand nine hundred and five, payable semi-annually during his natural lifetime. Should the Federal Government pension said J. H. Pershing, then this act shall become a nullity.

Section 2. That after the passage of this act, the act of one thousand eight hundred and ninety-seven, above referred to, be and is hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 110, entitled "An act granting an annuity to J. H. Pershing."

This bill contains a number of statements of facts the accuracy of which there are no means of ascertaining. If pensions are to be granted for services rendered during the War of the Rebellion, it ought not to be done by special legislation, but by a general act. The worthy soldier whom it would benefit is no doubt deserving, but perhaps not more so than many others whom this bill would not in any way affect. It provides for the repeal of the act of the 26th of June, 1897, and has no reference to such repeal in its title. It is, therefore, unconstitutional.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 22.

AN ACT

Regulating the age at which calves can be slaughtered for food, and providing a means of tracing to the origin any veal shipped to or from points in this Commonwealth, and providing penalties for the violation thereof.

Section 1. Be it enacted, &c., That on and after the passage of this act, no person shall slaughter for the purpose of selling the same for food, or expose for sale, or sell, within this State, or bring or cause to be brought into any city, town or village within this State, for food, the carcass of any calf or any part thereof, except the hide, unless it is in good, healthy condition, and was at least four weeks of age at the time of killing. Any authorized agent of the State Live Stock Sanitary Board may examine any calf or veal, found within this State, offered or exposed for sale, or kept with intent to sell, as food; and if such calf is under four weeks of age, or the veal is from a calf killed under four weeks of age, or from a calf in an unhealthy condition when so killed, he may seize and cause it to be destroyed, or disposed of in such a manner as to make it impossible to be used as food.

Section 2. It shall be unlawful for any corporation, partnership, person or persons, to ship to or from any part of this State any carcass or carcasses of a calf or calves, or any part of such carcass except the hide, unless they shall attach to every carcass or part thereof, so shipped, in a conspicuous place, a tag that shall stay thereon during such transportation, stating the names of the shipper, the points of shipping and the destination, and the age of the calf; and no railroad company, express company, steamboat company, or any other common carrier shall carry, or receive for transportation, any carcass or carcasses of calves, or any part of the same except the hide, unless said carcass or carcasses or parts thereof shall be tagged as herein provided.

Section 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any alderman, magistrate or justice of the peace, shall be sentenced to pay a fine of not more than one hundred dollars for each and every offence, together with all the costs of the prosecution, and in default of the payment of said fine and costs, shall stand committed until the same are paid. All penalties and costs recovered for the violation of any of the provisions of this act shall be paid to the Secretary of the State Live Stock Sanitary Board, or to the authorized agent of said Board, and by him be immediately covered into the State Treasury.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, March 31, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 152, entitled "An act regulating the age at which calves can be slaughtered for food, and providing a means of tracing to the ori-

gin any veal shipped to or from points in this Commonwealth, and providing penalties for the violation thereof."

It is to be regretted that this bill cannot be approved, since it proposes to prevent the killing of calves which are diseased or are under four weeks of age, and the selling of their flesh as food, which subject is a very proper one for legislation. Unfortunately there has been a want of care in the preparation of the bill, and this want of care is the greater for the reason that the difficulty which arises was clearly pointed out in a message disapproving a like bill two years ago. (See vetoes, page 49.) The bill directs that "any authorized agent of the State Live Stock Sanitary Board may examine any calf or veal, found within this State, offered or exposed for sale, or kept with intent to sell, as food, and if such calf is under four weeks of age, or the veal is from a calf killed under four weeks of age, or from a calf in an unhealthy condition when so killed, he may seize and cause it to be destroyed or disposed of in such manner as to make it impossible to be used as food." Some calves within this State, under four weeks of age, are intended by their owners to be raised, but most of them are kept with intent to sell them as food. The bill authorizes the agent of the State Live Stock Sanitary Board to take all such calves and destroy them so as to make it impossible that they should be used as food. Since all the calves within the State are, or were, at one time or another, under four weeks of age, it would enable these agents to seize and destroy any or all of them, provided there was an intent upon the part of the owner at any time to sell them as food. The language is broad enough to cover nearly all calves, because the intent of the owner no doubt is, even where they are permitted to become full grown bulls, steers and cows, finally to convert them into food.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 23.

AN ACT

To provide for an additional law judge of the several courts of the Forty-seventh Judicial District, composed of the county of Cambria.

Section 1. Be it enacted, &c., That in addition to the judges provided for in an act, entitled "An act to designate the several judicial districts of the Commonwealth as required by the Constitution, and to provide for the election, appointment and commissioning of judges, learned in the law, for the said districts in cases where such judges are not provided for by existing law," approved the eighteenth day of July, Anno Domini one thousand nine hundred and one, an additional law judge is hereby authorized and provided for the several courts of the Forty-seventh Judicial District, composed of the county of Cambria, who shall possess the same qualifications which are required by the Constitution and laws for the president judge of said district, and who shall hold his office for a like term and by the same tenure, and shall have the same powers, authority and jurisdiction, and shall be subject to the same duties, restrictions

and penalties, and shall receive such compensation as is provided by law.

Section 2. At the next general election after the passage of this act, the qualified electors of said forty-seventh judicial district shall elect, in the manner provided by law for the election of a president judge, a competent person, learned in the law, to serve as additional law judge in said district. Vacancies in the office hereby created, whether caused by death, resignation, expiration of term, or otherwise, shall be filled in the same manner as required by law in case of a similar vacancy in the office of president judge.

Section 3. The judge in said district whose commission shall first expire shall be the president judge thereof, except where the president judge be re-elected, in which case he shall continue to be president judge.

Section 4. The Governor is hereby authorized to appoint some competent person, learned in the law, as such additional law judge, of said judicial district, until the first Monday of January succeeding the next general election.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 4, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 71, entitled "An act to provide for an additional law judge of the several courts of the Forty-seventh Judicial District, composed of the county of Cambria."

Of all the bills which have been passed during the present session for an increase in the number of judges, the present bill has the greatest apparent merit. The population of Cambria county at the time of the last census was 104,837, which showed an increase during the previous decade of 38,462. These figures indicate a great and rapid growth in population, and, since the business interests of the county are large and numerous, also a like rapid increase in the amount of litigation. The time, no doubt, is approaching when there will have to be provision made for another judge. At present, while there are at times perhaps sufficient cases to make the work burdensome for a single judge, there is not sufficient to give occupation to two judges. The Constitution provides that whenever the population of a county has reached the number of 150,000, a separate orphans' court shall be established. In Cambria county, if the present rate of increase continues, in a very few years an orphans' court will be there created, and that will be a relief to a great extent to the common pleas. To appoint now an additional judge would be in a short time to have in the county three judges. Much of the difficulty which at present exists is due to the want of railroad facilities which would enable the people of Johnstown to reach the county town. This difficulty would be in no way obviated by the appointment of an additional judge. The judge of the common pleas court now in commission does not ask for any assistance, and, in fact, appears to be of the opinion that such assistance would be

unnecessary. He writes, "there is not a case in my hands from any of our courts pending and undetermined." He further writes, "I doubt if any district in the State can show a cleaner calendar." An examination of the calendar of the court of common pleas for March term, 1905, would seem to support his statement. On the calendar are two cases for trial which had been commenced during that term. There are seven cases during December term, 1904; eight cases commenced in September term, 1904; eight cases in June term, 1904; three in March term, 1904; two in December term, 1903; two in June term, 1903; one in March term, 1903, and two in December term, 1902. These last are the oldest cases on the calendar, and the facts would seem to prove that the court is well up with its work—far more so than most of the courts of the Commonwealth. An examination of the calendars for the different terms throughout the year, 1904, discloses a similar state of facts.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 24.

AN ACT

Amending the act of April four, one thousand eight hundred and thirty-one, "To provide for the employment and support of the poor, in the county of Schuylkill," and creating the office of "The directors of the poor and of the house of employment for the county of Schuylkill," by creating a board of trustees to govern the house for the employment and support of the poor in the county of Schuylkill, and conferring power upon the Governor of the Commonwealth to appoint and remove the same, and to provide a system for the better management and regulation of the house for the employment and support of the poor in said county, and to abolish the office of "the directors of the poor and of the house of employment, for the county of Schuylkill," and to repeal parts of the acts of April four, one thousand eight hundred and thirty-one, in conflict with said amendment.

Section 1. Be it enacted, &c., That the Governor shall, on or before the first day of January, one thousand nine hundred and six, and triennially thereafter, appoint three persons who shall constitute a board of trustees for the management of the Schuylkill county almshouse, to serve for the term of three years from the first Monday of January, one thousand nine hundred and six. Any trustees appointed under this act shall be eligible for reappointment. All vacancies occurring in the said office of trustee by reason of death, removal for cause, resignation, or otherwise, shall be filled by the Governor appointing the person or persons to fill the unexpired term: Provided, That one trustee shall be appointed from the minority party.

Section 2. The salary of each trustee shall be one thousand five hundred dollars per annum, which shall include all expenses incurred by said trustees in the performance of his duty.

Section 3. The trustees or a majority of them shall have full and complete charge of the management of the Schuylkill county almshouse, except as hereinafter otherwise provided, and may make and adopt all necessary rules and regulations not inconsistent with any laws of the Commonwealth.

Section 4. The trustees shall meet on the first Monday of January of each year, or as soon thereafter as possible, and organize themselves into a board by electing one of their number as president, and some one other than a trustee as clerk, who shall keep a full and detailed record of all the proceedings of said board thereafter, and copy the same in a book specially provided for said purpose, to be called the minute book of the Schuylkill county almshouse. After the organization of said board, it shall proceed and appoint a superintendent, and matron, a physician, a chief nurse, and all other officers, attendants and help necessary to properly carry on the business of the said almshouse.

Section 5. The superintendent shall be confirmed by the court of common pleas of Schuylkill county, and he shall give bond, with good and sufficient security, in the sum of ten thousand dollars, to be approved by the court, for the faithful performance of his duties.

Section 6. The superintendent shall have full charge of the said almshouse; and all employes, officers, attendants and help shall be subordinate to him, and subject to such rules and regulations as the said trustees shall prescribe.

Section 7. No person shall be appointed physician unless he or she has had three years actual practice in his or her profession, after being awarded a diploma as a graduate physician or surgeon.

Section 8. No person shall be appointed a chief nurse who has not had at least two years practical experience in a public or private hospital.

Section 9. The board of trustees may elect a solicitor, in their discretion, whose salary shall not be more than three hundred dollars per annum.

Section 10. It shall be unlawful for the county to maintain the family of any employe at the expense of the county: Provided, however, That this section shall not apply to the family of the superintendent.

Section 11. Before any persons shall be entitled to outdoor relief from the county, a doctor, minister or priest, and an owner of real estate, shall certify, under oath, before a justice of the peace, that the applicant is in needy circumstances, and that the granting of the outdoor relief will be sufficient to keep them from being inmates of the almshouse. The assessor of the district in which the applicant lives shall also certify whether or not the applicant has any property, real, personal or mixed, from which said applicant could secure the necessaries of life sufficient to keep the said applicant out of the county almshouse. The justice of the peace executing said certificate, and forwarding same to the board of trustees, shall be paid seventy-five cents by the county for said services.

Section 12. Indigent, helpless, sick and insane persons may be committed to the almshouse in the same manner as is now provided for by law: Provided, however, That the superintendent shall have power to temporarily receive inmates: upon investigation by himself, by the board of trustees, or any of them, or by the out door relief investigator, without a formal committment; and the superintendent shall also have power, with the approval of the board of trustees, to contract for the keeping of inmates, at charges agreed upon: Provided, That the proper papers, necessary to show the right of such

party to be admitted to the almshouse, shall be subsequently promptly furnished.

Section 13. The board of trustees shall have power and authority to take all children committed to the said almshouse, and to lawfully dispose of the same by agreeing with persons or institutions, approved by them, for the instruction, maintenance, charge and care of the same, for any period of time to be mutually agreed upon by them, in accordance with the forms of law. The said agreements to be kept upon the minutes of the said trustees, and correct records to be kept on file of the same.

Section 14. The board of trustees shall annually, during the month of January, meet with the county commissioners and arrange the annual appropriations, and submit to the county controller and commissioners, before the first day of February of each year, a detailed estimate of the expenses for the current year.

Section 15. All contracts made by the board of trustees, involving an expenditure exceeding one hundred dollars, shall be in writing, and immediately after their execution shall be filed with the controller of said county; but no contract shall be made, nor the payment thereof certified by the controller, for over one hundred dollars, unless when made with the lowest and best bidder, after due notice to be published by the controller, when directed by the board of trustees, and the contract awarded; of which awards the controller shall keep a record, and he shall certify no warrant for contracts not made agreeably thereto.

Section 16. All warrants must be marked correct by the superintendent, and signed by a majority of the trustees, before being presented to the county controller for his approval, and, upon his approval, the treasurer of the county is hereby authorized to pay the same.

Section 17. The board of trustees shall have no power to enlarge, erect, construct or build any buildings upon the county property without the consent of the county commissioners and the court of common pleas of said county, nor shall they have the power to sell any of the real estate of the said county.

Section 18. The salary of the superintendent shall not exceed twelve hundred dollars per annum, salary of the matron shall not exceed five hundred dollars per annum, salary of the clerk shall not exceed one thousand dollars per annum, salary of the physician shall not exceed twelve hundred dollars per annum, salary of the chief nurse shall not exceed six hundred dollars per annum, and the salaries of all other employes shall be fixed by the board of trustees, with the approval and consent of the controller of the county of Schuylkill.

Section 19. All acts or parts of acts inconsistent herewith are hereby repealed, and the office of "the directors of the poor and of the house of employment, for the county of Schuylkill" is hereby abolished.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 4, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 97, entitled "An act amending the act of April four, one thousand eight hundred and thirty-one, 'To provide for the employment and support of the poor in the county of Schuylkill,' and creating the office of the 'The directors of the poor and of the house of employment for the county of Schuylkill,' by creating a board of trustees to govern the house for the employment and support of the poor in the county of Schuylkill, and conferring power upon the Governor of the Commonwealth to appoint and remove the same, and to provide a system for the better management and regulation of the house for the employment and support of the poor in said county, and to abolish the office of 'the directors of the poor and of the house of employment for the county of Schuylkill,' and to repeal parts of the acts of April four, one thousand eight hundred and thirty-one, in conflict with said amendment."

The effect of this bill would be to abolish the office of the directors of the poor of the county of Schuylkill, and to constitute a board of three trustees for the management of the Schuylkill county almshouse, which trustees are, under its terms, to be appointed by the Governor of the Commonwealth. This would introduce an innovation into our law. So far as known, wherever in the Commonwealth there are directors of the poor they are elected by the people of the county. The bill would deprive the people, whose money is to be expended, of a function which they have always heretofore exercised. The Governor of the Commonwealth as an official has no relation to the local affairs of the county. The duty of appointing these trustees might almost as well be imposed upon the mayor of Pittsburg or of Philadelphia. By the terms of the bill the Governor is not required to appoint the board of trustees from the people of the county, and, therefore, the trustees might themselves be entire strangers to the community. It would have the effect of lessening the efficiency of the Gubernatorial office to have it burdened with duties which have no connection with the work of the Commonwealth. There is a proviso, "that one trustee shall be appointed from the minority party." This proviso may be presumed to have reference to a political party, although it does not so state. If this be the correct interpretation, there is nothing to determine which one of the several minority parties is intended. The bill provides that the salary of each trustee shall be fifteen hundred dollars per annum. Since he is to be appointed by the Governor, it was perhaps intended that his salary should be paid by the Commonwealth, but there is nothing in the bill which makes it clear how these salaries are to be paid or by whom—whether county or Commonwealth.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 25.

AN ACT

To provide for the selection of sites and the erection of two State Institutions for the treatment of incipient tuberculosis, and for the protection of the citizens of Pennsylvania; to be located within the limits of the State Forestry Reservation; one in the South Mountain Reservation, this Commonwealth, and the second in the western portion of the State; and for the creation of a board of trustees to have charge of the same; defining their powers and duties; and making the necessary appropriations therefor.

Section 1. Be it enacted, &c., That a Commission is hereby created, consisting of three persons, who shall serve without compensation (except necessary expenses), to select sites and build two institutions for the maintenance and care of citizens, of this Commonwealth, suffering from tuberculosis in its incipient stage. Said institutions to be located within the limits of the State Forestry Reservation; one in the South Mountain Reservation, this Commonwealth, and the second in the western portion of the State. This Commission shall consist of two practicing physicians, to be appointed by the Governor, and of the Commissioner of Forestry; said Commission to have power to employ a secretary and stenographer.

Section 2. Said Commission shall select suitable tracts of land within the boundaries of the State Forestry Reservation; one in the South Mountain Reservation, Pennsylvania, and the second in the western portion of the State.

Section 3. The tracts of land, so selected, shall be well adapted to the purposes for which this Commission has been created, to wit, the maintenance, treatment and cure of citizens of this Commonwealth, suffering from incipient pulmonary tuberculosis, and said tracts of land, so selected, shall be approved, in writing, by the Governor, before any buildings shall be erected thereon.

Section 4. The plans for said institutions and buildings shall be prepared by said Commissioners, and approved by the State Board of Public Charities. The buildings shall be of the best modern design, specially adapted to the treatment of the disease called pulmonary tuberculosis, without expensive architectural adornments or unduly large or costly administrative accommodations, with buildings separate and distinct for the uses of the physicians, nurses, and employes.

Section 5. The said commissioners shall, with the approval of the Governor, have power to select a superintendent of construction, and fix his salary, and may also fix the salary of such other persons as they may think necessary in order to secure a proper and economical construction of said buildings.

Section 6. To enable the Commissioners to select the tracts of land, prepare plans and erect said buildings, the sum of three hundred thousand dollars, or so much thereof as may be necessary, is hereby specifically appropriated; the amount of expenditure to be equally divided between the two institutions; said amount to be drawn from the Treasury, as the same may be required, on warrants drawn by the Auditor General in the usual manner, vouchers or statements to be furnished before any warrant is issued.

Section 7. The institutions to be erected shall be used for the pur-

pose of treating tuberculosis in its incipient and curable stage, and shall each accommodate not less than one hundred and fifty patients.

Section 8. Said Commissioners shall proceed to erect said buildings, and complete the same, with such funds as may be appropriated, from time to time, by the Legislature; and shall make report to the Legislature of the amount of money expended by them, and of the progress made in the erection of the buildings.

Section 9. The land upon which the buildings are to be constructed, within the boundaries of the State Forestry Reservation, aforesaid, shall consist of not more than five hundred acres, in extent, for each institution. Upon the completion of said buildings, the said Commissioners shall be constituted a board of trustees, who shall serve without compensation except necessary expenses. They shall manage and direct the concerns of the institutions, and make all necessary by-laws and regulations, not inconsistent with the Constitution and the laws of this Commonwealth. Of the trustees first appointed, one of the physicians shall be chosen to serve for four years, and the other for two years; and at the expiration of the respective periods the vacancies shall be filleed by the Governor, by appointment, for four years, as hereinbefore provided; and should any vacancy occur by death, or resignation, or otherwise, of any trustee, such vacancy shall be filled by appointment, as aforesaid, for the unexpired term of such trustees. The Commissioner of Forestry shall serve as a member of the board of trustees.

Section 10. These institutions shall be specially and entirely devoted to the maintenance, treatment and cure of citizens of this Commonwealth, suffering from incipient tuberculosis, and to a special study of the disease, with a view to the protection of the population of this Commonwealth from further infection by persons already suffering therefrom. All inmates shall be subject to such rules and regulations as the board of trustees may adopt.

Section 11. The form of application for admission to said Sanatoria, and the necessary checks to improper admission, shall be such as the board of trustees shall adopt. All blank applications, when filled by the answers required, shall be sworn to or affirmed, either by the applicant or some one in his or her behalf, and in the case of minors said application shall be subscribed to by any parent or guardian.

Section 12. The board of county commissioners, directors of the poor, or the department of charities, of any county of this Commonwealth, in approving an application for the admission of persons to said institutions shall make a statement, under oath, as to their citizenship in this Commonwealth; and shall state whether or not such persons have an estate of sufficient value, or a parent or parents of sufficient financial ability, to defray the expense, in whole or in part, of supporting such person in said sanatoria; and shall state, if there be such means of support in part only, the amount which said person, parent or guardians may be able to pay. Any person or persons who may make application directly to said trustees of said sanatoria shall therein make statement, under oath, as to their means of support, if any; and said trustees, in accepting an application for admission, shall fix the amount, if any sum is to be paid for the treatment of the person admitted; said amount to be deter-

mined according to the ability of the parent or guardian of the minor, or according to the value of such person's estate, if any; and shall require payments as a condition to the admission or retention of such person or persons. Where the indigence of the child, parent or guardian or person, is such as to entitle to admission upon the full beneficiary fund of the State, the support at the sanatoria shall be provided for by annual appropriation, at such per capita rates as shall be appropriated by the Legislature, on the application of the trustees. The employment of any or all patients shall, when possible and when warranted by their physical condition, be made tributary to the maintenance of the sanatoria.

Section 13. Said board of trustees shall have authority to receive, for the use of said sanatoria, such gifts, legacies, devises and conveyances of property, real or personal, as may be made, given or granted to or for such sanatoria, or in the name of the institution, or the name of said board of trustees.

Section 14. The said board of trustees shall appoint two skillful physicians, who shall be graduates of a legally chartered medical college, and shall have had an experience in the treatment of tuberculosis of at least five years, who shall be superintendents, one over each of said sanatoria, and shall be authorized to oversee and direct the medical, hygienic and other interests of the said institutions, and shall have charge and supervision of their respective institutions, both professionally and otherwise. They shall name for appointments such and so many assistants, nurses, attendants and employes as may be considered necessary by the said board of trustees; and, with the approval of the said board of trustees, shall appoint stewards, who shall, under the direction of said superintendents, have charge of the employment of all the employes except the physicians, nurses and hospital attendants. Said stewards to purchase and distribute all supplies, and keep accounts, under such rules and regulations as may be established by said trustees. All salaries to be fixed by the board of trustees.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 6, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval House bill No. 180, entitled "An act to provide for the selection of sites and the erection of two State institutions for the treatment of incipient tuberculosis, and for the protection of the citizens of Pennsylvania; to be located within the limits of the State Forestry Reservation; one in the South Mountain Reservation, this Commonwealth, and the second in the western portion of the State; and for the creation of a board of trustees to have charge of the same; defining their powers and duties; and making the necessary appropriation therefor."

This bill raises questions of very grave importance. It provides for a preliminary step in a movement the results of which are of the most extensive character. The provisions for charitable work

in this Commonwealth have already reached formidable proportions. The demands for such purposes are increasing every year, and it behooves us to consider whether the time may not arrive when the resources of the State will not be sufficient to enable us to continue the policy. This bill would open up an entirely new field for the establishment of charities, for whose maintenance the State would be responsible. Its purpose is, "to provide for the selection of sites and the erection of two State institutions for the treatment of incipient tuberculosis." It assumes that it is the duty of the State to take care of those of the people who are suffering from diseases likely to be fatal, and, which being contagious or infectious, are likely to affect injuriously others in the community.

At the outset, and when making the first step, we ought not to shut our eyes to the fact that, if we are to provide for consumptives because of these reasons, we may have, in time to take care also of those afflicted with the dangerous and contagious or infectious diseases, such as small-pox, leprosy, cholera, yellow fever, the bubonic plague, typhoid fever, pneumonia, and many others. It must be assumed that the legislature has given to this branch of the subject full consideration, and concluded to commit the Commonwealth to such a policy; but its importance is so great that it may well lead to hesitation. Assuming that such a policy is to be adopted, the means to be used and the methods to be pursued and the extent to which it is to be carried ought to be most carefully considered. The purpose, as it is defined, is to be found in section ten, which provides, "These institutions shall be especially and entirely devoted to the maintenance, treatment and cure of citizens of this Commonwealth, suffering from incipient tuberculosis." The only limitation upon those having incipient tuberculosis, who may have the benefits conferred by the bill, is that they shall be citizens of this Commonwealth. The rich, therefore, are as much entitled to receive these benefits as the most needy. Tuberculosis is a very prevalent disease, and those suffering from it within the Commonwealth are very numerous. The bill purports to provide for only three hundred patients. This number will be a very small proportion of those so diseased. Since this is to be a charity, and is based entirely upon the thought of the performance of a duty, it seems to me that it ought, in the beginning at least, to be confined to those suffering from tuberculosis among the poorer classes of the people, who are unable to take care of themselves, and also most likely to affect others with whom they are brought into contact.

The bill provides for the appointment of a commission of three persons, who "shall select suitable tracts of land within the boundaries of the State Forestry Reservation," to erect thereon two institutions and necessary buildings, each tract containing five hundred acres, and after the completion of the buildings the commissioners shall be constituted a board of trustees to manage and direct the concerns of the institutions. The commission is to consist of two practicing physicians, to be appointed by the Governor, and of the Commissioner of Forestry. To enable the commissioners to select the tracts, prepare the plans and erect the buildings, the sum of $300,000 is appropriated; but this is not the end of it. The commissioners shall proceed "to erect said buildings and complete the

same, with such funds as may be appropriated from time to time by the Legislature." In extent, therefore, they are unlimited, and the commission is a continuous building commission. It seems to me that, in the consideration of the subject, the Legislature ought to have fixed an amount which would be sufficient to meet the needs of the object sought to be accomplished. The membership of the commission does not appear to me to be wisely determined. The commissioners are not only charged with the duty of the erection of the buildings, but thereafter they become the trustees to manage and control them. The Governor is limited in his selection to the class of practicing physicians. The work to be done would seem to require the experience of business men and artisans, rather than professional experience, and the matter becomes of greater importance because vacancies, as they arise, must be filled from the same class. The purpose in making physicians the commissioners and trustees could not have been to provide for the treatment of the patients, because the bill directs that these trustees "shall appoint two skilled physicians, who shall be graduates of a legally chartered medical college, and shall have had an experience in the treatment of tuberculosis of at least five years, who shall be superintendents." Therefore the necessity for professional supervision is provided for. Nor does the selection of the Commissioner of Forestry as the third member of the commission appear to be desirable. He is a trained expert in other lines, employed by the State to take care of her forests, and having in his charge already about 800,000 acres of land. His time is sufficiently occupied with attention to his special duties. The act of February 25, 1901, directs that the State Forestry Reservation Commission shall "have full power to manage and control all the lands which it may purchase," and further provides that these lands "shall be held by the Commissioner of Forestry." The bill under consideration would give a thousand acres of these lands into the control of another commission, for an entirely distinct and separate purpose, and there is no repeal of the prior act. This would necessarily result in a conflict of jurisdiction and authority. The difficulty is not overcome by making the Commissioner of Forestry one of the commissioners, under the bill, for the reason that he might always be outvoted by the other two members of the commission. At best, he is placed in the embarrassing position of representing two commissions having diverse aims and interests; on the one hand, as a forester, to plant trees, and, on the other, to erect buildings on the same lands. It is a question whether the forestry reservation ought to be encroached upon for other purposes, even if they be meritorious. If the forestry lands are to be laid bare for the purpose of the erection of buildings for one worthy purpose, they may be, in time to come, utilized for many other such purposes. The better way would be to keep distinct objects separate and apart, and, if we ought to have institutions for the treatment of incipient tuberculosis, then to get the lands necessary for them, or, if need be, to separate these lands entirely from the forestry reservation.

I am better satisfied with this disposition of the bill, because of the fact that at the present session a bill has been passed creating a Department of Health, and giving to it ample powers. Should this bill become a law the department may devise and prepare a well

digested plan for the treatment of tuberculosis and the protection of the community from the evils which ensue from its prevalence. To create a commission and assign its work would be to take from the department the control of one of the most important of the matters which justify its creation, and much to increase the expense to the State.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 26.

AN ACT

To amend an act, entitled "An act to amend clause two of section thirty-one of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four; providing for increased rates of toll upon bridges in certain cases," approved the sixth day of May, Anno Domini one thousand eight hundred and eighty-seven; authorizing an increase of said tolls in certain other cases.

Section 1. Be it enacted, &c., That clause two of section thirty-one of said act which, as amended, reads as follows, namely:

"When the said corporation shall have erected and completed a bridge over any creek or river, under the authority of this act, the property thereof shall be vested in the said corporation, and it shall have the power to erect gates and to demand and receive tolls for crossing said bridge, at such rates as the president and directors thereof shall, from time to time, determine, not exceeding the rates following, namely: For every score of sheep or swine, eight cents; for every score of horned or muley cattle, twenty-five cents; for every mule or horse, driven or led, five cents; for every horse or mule, ladened or unladened, with rider, five cents; for every two-wheeled vehicle and one horse, six cents; the same with two horses, ten cents; for every four-wheeled vehicle, with one horse, ten cents; for every four-wheeled vehicle, with two horses, fifteen cents; for either of the last named vehicles, with four horses, twenty cents; for every foot passenger, two cents: Provided, That any bridge not wholly, or in part, within the limits of any city of the first or second class within this Commonwealth, that shall hereafter be constructed or reconstructed, and the cost whereof shall be increased beyond the minimum by reason of the demands and requirements of navigation, the corporation owning the same may demand and receive tolls, not exceeding fifty per centum in excess of above rates, in any case, where such increased rates do not produce a net revenue in excess of six per centum per annum upon the capital stock of such corporation: Provided further, That no such increased tolls shall be charged in any case until the same shall have been authorized by the court of quarter session of the proper county, or if a bridge be located over a stream dividing counties, then by the court of quarter session of the county wherein the office of the company may be situated, and in all cases said corporations shall cause to be put up and kept in some conspicuous place at the gate of said bridge a list of the rates of toll: And provided further, That all children going

to and from school shall have free passage," be and the same is hereby further amended to read as follows, namely:

When the said corporation shall have erected and completed a bridge over any creek or river, under the authority of this act, the property thereof shall be vested in the said corporation, and it shall have the power to erect gates and to demand and receive tolls for crossing said bridge, at such rate as the president and directors thereof shall, from time to time, determine, not exceeding the rates following, namely: For every score of sheep or swine, eight cents; for every score of horned or muley cattle, twenty-five cents; for every mule or horse, driven or led, five cents; for every horse or mule, ladened or unladened, with rider, five cents; for every two-wheeled vehicle and one horse, six cents; the same, with two horses, ten cents; for every four-wheeled vehicle, with one horse, ten cents; for every four-wheeled vehicle, with two horses, fifteen cents; for either of the last named vehicles, with four horses, twenty cents; for every foot passenger, two cents: Provided, That where any bridge, erected over any creek or river exceeding two thousand feet in width, under a special charter authorizing such rate of tolls as the managers or board of directors may, without restriction, from time to time, determine, shall have been or may hereafter be destroyed by fire, flood, or any other casualty, and shall not have been rebuilt under said charter for a period of five years, any corporation, created under existing laws for the purpose of erecting a bridge on or near the same site, may demand and receive tolls as may, from time to time, be fixed by the directors; such tolls, however, in any one year, not, however, to exceed six per centum upon the actual cost of said bridge; and if the sum total of such tolls in any one year be in excess of six per centum upon the actual cost of said bridge, then such excess is to be credited upon the succeeding year, and calculated in making up such six per centum; and the corporation is hereby required each year, at the end thereof, to publish in two county newspapers, published in the counties adjoining such bridge, for three successive weeks, once each week, an annual statement of its receipts for toll; a schedule of such tolls to be put up and kept in some conspicuous place at the gate or gates of said bridge: And provided further, That any bridge not, wholly or in part, within the limits of any city of the first or second class within this Commonwealth, that shall hereafter be constructed or reconstructed, and the cost whereof shall be increased beyond the minimum by reason of the demands and requirements of navigation, the corporation owning the same may demand and receive tolls, not exceeding fifty per centum, in excess of the above rates, in any case where such increased rates do not produce a net revenue of six per centum per annum upon the capital stock of such corporation; but no such increased tolls shall be charged, in any case, until the same shall have been authorized by the court of quarter session of the proper county, or, if the bridge be located over a stream dividing the counties, then by the court of quarter session of the county wherein the office of the company may be situated; and in all cases said corporation shall cause to be put up and kept in some conspicuous place at the gate of said bridge, a list of the rates of said toll: And provided further, That all children going to and from school shall have free passage.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 7, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 18, entitled "An act to amend an act, entitled 'An act to amend clause two of section thirty-one of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four; providing for increased rates of toll upon bridges in certain cases,' approved the sixth day of May, Anno Domini one thousand eight hundred and eighty-seven; authorizing an increase of said tolls in certain other cases."

There are a number of fatal objections to this bill. Its purpose is to amend an act, and in the enacting part of the bill there is no description of the act which it is intended to amend. While purporting to be a general bill, it is plain that it is an instance of special legislation. The amendment applies only to a case where there is a bridge over a creek or river more than two thousand feet in width, where a charter had been granted by the Legislature to a bridge company authorizing them to fix tolls as the board of directors may determine, where the bridge has been destroyed by some casualty, where for a period of five years the bridge had not been rebuilt, and where another company has obtained a charter for the erection of a bridge near the same site. It is extremely unlikely that this combination of circumstances could have occurred in more than one instance. The important part of the proposed amendment is a provision, "that where any bridge, erected over any creek or river exceeding two thousand feet in width, under a special charter authorizing such rate of tolls as the managers or board of directors may, without restriction, from time to time, determine, shall have been or may hereafter be destroyed by fire, flood, or any other casualty, and shall not have been rebuilt under said charter for a period of five years, any corporation, created under existing laws for the purpose of erecting a bridge on or near the same site, may demand and receive tolls as may, from time to time, be fixed by the directors; such tolls, however, in any one year, not, however, to exceed six per centum upon the actual cost of said bridge; and if the sum total of such tolls in any one year be in excess of six per centum upon the actual cost of said bridge, then such excess is to be credited upon the succeeding year." This language gives the second corporation the right to erect a bridge near the same site and take tolls. There is nothing in the title to the proposed act to call attention to this grant of power. Since a charter has been held to be a contract with the State, which the State cannot set aside, no such grant of power can be made unless in some way the preceding corporation has forfeited or surrendered its rights. The bill provides that the tolls shall not in any one year exceed six per centum upon the actual cost of the bridge. This language prohibits the directors from taking such tolls. The prohibition, however, is at once abrogated by the direction that such tolls may be taken, but the excess is to be cred-

ited to the succeeding year. The two provisions are incongruous. It is also plain that while there is an apparent effort to restrict the taking of tolls, in reality there is no restriction whatever. The excess over six per centum is to be credited to the succeeding year. When that year arrives, the excess is again to be credited to the next succeeding year, and so on ad infinitum.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 27.

AN ACT

To prevent the interruption of the public schools by canvassing, soliciting, selling or offering for sale any article or articles whatsoever, or by seeking the enrollment or signatures of teachers.

Section 1. Be it enacted, &c., That on and after the passage of this act, it shall be unlawful for any person or persons to enter upon the public school grounds of any school district in the Commonwealth of Pennsylvania, for the purpose of canvassing, soliciting, selling or offering for sale any article or articles whatsoever, or for the purpose of securing the signature or signatures of any teacher or teachers therein, for any purpose whatsoever, during school hours.

Section 2. Any person violating the provisions of section one of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars, nor more than five hundred dollars.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 7, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 266, entitled "An act to prevent the interruption of the public schools by canvassing, soliciting, selling or offering for sale any article or articles whatsoever, or by seeking the enrollment or signature of teachers."

This bill makes it a misdemeanor, punishable with a fine of from one hundred to five hundred dollars, for any person to enter upon the public school-grounds of any school-district in the Commonwealth, "for the purpose of securing the signature or signatures of any teacher or teachers therein, for any purpose whatsoever, during school hours." If then a school director should enter the school to ask a teacher to sign the discharge of a pupil, or if a parent should go there to get an excuse written for a necessary absence of a child, it would be punishable with a fine of five hundred dollars. The evil which the bill seeks to prevent is not one of very serious importance.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 28.

AN ACT

Making an appropriation to Carroll R. Williams, J. H. Shoemaker, and A. Morton Cooper, of Philadelphia, for services as attorneys for the Dairy and Food Commissioner, and to A. K. Cassel, of said city, for services as special agent of the Dairy and Food Commissioner.

Whereas, Eastburn Reeder was Dairy and Food Commissioner of the Commonwealth of Pennsylvania from June, eighteen hundred and ninety-three, to June, eighteen hundred and ninety-five, and was empowered to employ agents and attorneys necessary for the proper discharge of the duties of his office, and, being without funds to defray his official expenses, the Dairymen's Protective Association raised a fund by contributions from its members, and issued to the contributors certificates of indebtedness, in amounts of fifty dollars each, payable out of an appropropriation thereafter to be made by the Legislature for their payment, and turned over the said fund to the said Commissioner, to be used by him in the performance of his official duties, and he expended the said fund for that purpose; and, subsequently, when the said Commissioner was again without funds, certain contributors to said fund assigned their said certificates to the said Commissioner, to be used by him in payment of his official attorneys and agents for their services; and the said Commissioner employed as his official attorneys Carroll R. Williams, J. H. Shoemaker and A. Morton Cooper, as his special official agent A. K. Cassel, and assigned to Carroll R. Williams ten of said certificates, to J. H. Shoemaker and A. Morton Cooper, jointly, five of the said certificates, in payment for services performed by them as such attorneys, and to A. K. Cassel eight of the said certificates, in payment for services performed by him as such agent; and the said Carroll R. Williams, J. H. Shoemaker, A. Morton Cooper and A. K. Cassel have not been paid for the services for which the said certificates were respectively assigned to them, except by the said certificates, and said certificates have not been paid nor has any appropriation been made for the payment thereof, and the full amount due thereon, namely eleven hundred and fifty dollars, is still due and payable with interest; therefore,

Section 1. Be it enacted, &c., That the sum of five hundred dollars be appropriated to Carrol R. Williams, of Philadelphia, in payment for services performed by him as official attorney for Eastburn Reeder, Dairy and Food Commissioner of the Commonwealth of Pennsylvania from June, eighteen hundred and ninety-three, to June, eighteen hundred and ninety-five; that the sum of two hundred and fifty dollars be appropriated to J. H. Shoemaker and A. Morton Cooper, of said city, jointly, for services performed by them as official attorneys for the Dairy and Food Commissioner, and that the sum of four hundred dollars be appropriated to A. K. Cassel, for services performed by him as official special agent for the said Dairy and Food Commissioner.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 7, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 348, entitled "An act making an appropriation to Carrol R. Williams, J. H. Shoemaker and A. Morton Cooper, of Philadelphia, for services as attorneys for the Dairy and Food Commissioner, and to A. K. Cassel, of said city, for services as special agent of the Dairy and Food Commissioner."

This bill sets forth, in the preamble, a statement of facts the accuracy of which there is no means of ascertaining, and which, therefore, ought not to be made a part of a law. The claim for which recovery is sought is about twelve years old. It is alleged that the claimants rendered certain services to the Dairy and Food Commissioner, for which they received compensation in the shape of certain certificates issued by the Dairymen's Protective Association. It is further alleged that the certificates have not been paid, and that the claimants have not been paid for their services. The bill makes an appropriation, not for redeeming the certificates, but as a payment for the services. The nature and extent of the services alleged to have been rendered nowhere appears. If the claimants were to secure the moneys appropriated and still retain the certificates, they might, perchance, by a recovery on the certificates, receive double compensation. In a matter of this kind, the proper plan would be to authorize the claimants to bring suit against the Commonwealth to recover such sums as may be due to them.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 29.

AN ACT

To amend section two of an act, entitled "An act to amend section two of an act, entitled 'An act to prevent fraud and deception in the manufacture and sale of cheese, and defining what shall constitute the various grades of cheese, providing rules and regulations for marking and branding the same, providing for the enforcement of this act, prescribing penalties for its violation,' approved the twenty-third day of June, Anno Domini one thousand eight hundred and ninety-seven," said amendment approved the second day of May, Anno Domini one thousand nine hundred and one.

Section 1. Be it enacted, &c., That section two of an act, entitled "An act to amend section two of an act, entitled 'An act to prevent fraud and deception in the manufacture and sale of cheese, and defining what shall constitute the various grades of cheese, providing rules and regulations for marking and branding the same, providing for the enforcement of this act, prescribing penalties for its violation,' approved the twenty-third day of June, Anno Domini one

thousand eight hundred and ninety-seven;" said amendment approved the second day of May, Anno Domini one thousand nine hundred and one, and which reads as follows:

"Section 2. All cheese manufactured and sold within this Commonwealth shall be divided into five grades, and shall be branded or stenciled in ordinary bold-faced capital letters, not less than one-half inch in height, on one side of each cheese, and upon one side of the box or case containing the cheese, the manufacturer's name and postoffice address, and the words 'full cream,' 'three-fourths cream,' 'one-half cream,' 'one-fourth cream,' and 'skimmed cheese.' All cheese branded 'full cream' shall contain not less than thirty-two per centum of butter fat, as may appear upon proper test. All cheese branded 'three-fourths cream' shall contain not less than twenty-four per centum of butter fat, as may appear upon proper test. All cheese branded 'one-half cream' shall contain not less than sixteen per centum of butter fat, as may appear upon proper test. All cheese branded 'one-fourth cream' shall contain not less than eight per centum of butter fat, as may appear upon proper test. All cheese containing less than eight per centum of butter fat, as may appear upon proper test, shall be branded 'skimmed cheese:' Provided, however, That all full cream cheese sold, shipped or consigned to dealers outside of the Commonwealth of Pennsylvania may be branded, or stenciled, or not, as required by the act, at the option of the manufacturer," be and the same is hereby amended to read as follows:

Section 2. All cheese manufactured or sold shall be divided into five grades, and shall be branded or stenciled in ordinary capital letters, not less than one-half inch in height, on one side of each cheese, and upon one side of the box or case containing the cheese, the name and postoffice address of the manufacturer, or some other person, firm or corporation, within this Commonwealth, who thereby becomes responsible for the quality of said cheese, and the words "full cream," "three-fourths cream," "one-half cream," "one-fourth cream," and "skimmed cream cheese." All cheese branded "full cream" shall contain not less than thirty-two per centum of butter fat, as may appear upon proper test. All cheese branded "three-fourths cream" shall contain not less than twenty-four per centum of butter fat, as may appear upon proper test. All cheese branded "one-half cream" shall contain not less than sixteen per centum of butter fat, as may appear upon proper test. All cheese branded "one-fourth cream" shall contain not less than eight per centum of butter fat, as may appear upon proper test. All cheese containing less than eight per centum of butter fat, as may appear upon proper test, shall be branded "skimmed cheese:" Provided, however. That all full cream cheese, sold, shipped or consigned to dealers outside the Commonwealth of Pennsylvania, may be branded or stenciled, or not, as required by this act, at the option of the manufacturer.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 8, 1905.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, House bill No. 42, entitled "An act to amend section two of an act, entitled 'An act to amend section two of an act, entitled 'An act to prevent fraud and deception in the manufacture and sale of cheese, and defining what shall constitute the various grades of cheese, providing rules and regulations for marking and branding the same, providing for the enforcement of this act, prescribing penalties for its violation,' approved the twenty-third day of June, Anno Domini one thousand eight hundred and ninety-seven,' said amendment approved the second day of May, Anno Domini one thousand nine hundred and one."

The law, as it now exists, requires that all cheese sold within the Commonwealth shall have branded or stenciled upon one side of the box or case containing it "the manufacturer's name and post-office address." The proposed amendment would change this regulation, and substitute "the name and post office address of the manufacturer, or some other person, firm or corporation, within this Commonwealth, who thereby becomes responsible for the quality of said cheese." The proposed change would be altogether disadvantageous, and not at all desirable. Putting the name of some other person on the box would not in any way make him responsible for the quality of the cheese. Beside, it would be very easy to put on the name of some obscure and utterly irresponsible person. The manufacturer is much more likely to be a man of responsibility, and, since he makes the cheese, he is much more likely than some stranger to know whether or not it has the proper portion of cream. How will it benefit the purchaser or anybody else to have put "in ordinary bold-faced capital letters, not less than one-half inch in height," upon the box the name and address of somebody who did not make the cheese?

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 30.

AN ACT

In relation to railroads under lease, and saving their charters and franchises from forfeiture or impairment in case of failure of their lessees to maintain and operate any portion of their lines.

Section 1. Be it enacted, &c., That whenever any railroad, belonging to a company organized under any general or special law of this Commonwealth, is under lease to another railroad company, no failure on the part of the lessee to maintain or operate any portion of said railroad shall work a forfeiture or any impairment of the char-

tered rights or franchises of the lessor: Provided, That this act shall not apply to passenger railway companies.

Section 2. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 12, 1905.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

Gentlemen: I return herewith, without my approval, Senate bill No. 210, entitled "An act in relation to railroads under lease, and saving their charters and franchises from forfeiture or impairment in case of failure of their lessees to maintain and operate any portion of their lines."

This bill provides "that whenever any railroad, belonging to a company organized under any general or special law of this Commonwealth, is under lease to another railroad company, no failure on the part of the lessee to maintain or operate any portion of said railroad shall work a forfeiture or any impairment of the chartered rights or franchises of the lessor; provided, that this act shall not apply to passenger railway companies." The act of 19th February, 1849, section 19, provides that "if, after completion, the said railroad shall be suffered to go into decay and be impassable for the term of two years, then their charter shall be null and void." In most special acts of Assembly creating charters for the construction of railroads there are similar provisions. A charter is in the nature of a contract between the State and the company which is so incorporated. It is quite clear that no failure upon the part of the lessee of the corporation, which is no party to the contract, can in any way affect such contract. The forfeiture, if it arose, would be the consequence of the failure upon the part of the lessor, the corporation, and not of the lessee. No doubt, in most cases, covenants are introduced into the lease to protect the lessor against the consequences of neglect or failure upon the part of the lessee. With these covenants, however, the State has nothing to do. Apart from this technical view of the bill, which would make the legislation unnecessary, the propriety of the policy of the bill may well be questioned. Since a large proportion of the railroads constructed are no longer in the possession of the original companies, but have been leased to greater corporations, the result would be in this indirect manner to repeal all the laws, or most of them, both general and special, which provide for a forfeiture in the case of the abandonment of the road. As a general thing railroads when constructed extend through a considerable section of the country, their presence is an inconvenience to other land owners, and the law which provides that, when abandoned, their charters shall be forfeited, seems to be wise.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

VETOES.

BILLS FILED IN THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, WITHIN THIRTY DAYS AFTER THE ADJOURNMENT OF THE LEGISLATURE ON THE 13th DAY OF APRIL, A. D. 1905.

No. 31.

AN ACT

To amend an act, entitled "An act to amend the forty-sixth section of an act, approved the thirteenth day of June, Anno Domini one thousand eight hundred and thirty-six, entitled 'An act relating to roads, highways and bridges,' authorizing the construction of bridges on the line of adjoining counties, or located within one-fourth of a mile from the county lines," approved the twenty-third day of April, Anno Domini one thousand nine hundred and three.

Section 1. Be it enacted, &c., That the act of April twenty-third, one thousand nine hundred and three, entitled "An act to amend the forty-sixth section of an act, approved the thirteenth day of June, Anno Domini one thousand eight hundred and thirty-six, entitled 'An act relating to roads, highways and bridges,' authorizing the construction of bridges on the line of adjoining counties, or located within one-fourth of a mile from the county lines," which reads as follows:

"Section 46. Bridges over any river, creek or rivulet, being on the line of adjoining counties, or located within one-fourth of a mile therefrom, and necessary for the accommodation of the inhabitants of both counties, shall be authorized in the manner provided in the case of other county bridges, except that the court of quarter sessions of each county shall appoint three of the viewers, and that a report as aforesaid be made to the said courts, respectively, and that the said court shall, together with the grand juries and commissioners of the respective counties, in all other respects have and exercise a concurrent jurisdiction therein," be and the same is hereby amended so as to read as follows:

Section 46. Bridges over any river, creek or rivulet, being on the line of adjoining counties, or located within one-fourth of a mile

therefrom, and necessary for the accommodation of the inhabitants of both counties, shall be authorized in the manner provided in the case of other county bridges, except that the court of quarter sessions of each county shall appoint three of the viewers, and that a report as aforesaid be made to the said courts, respectively, and that the said courts shall, together with the grand juries and commissioners of the respective counties, in all other respects have and exercise a concurrent jurisdiction and discretion therein: Provided, however, That nothing herein contained shall prevent any county in this Commonwealth from erecting a bridge at any point wholly within the limits of said county, without any view or other proceedings whatsoever in any adjoining county.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 14, 1905.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 73, entitled "An act to amend an act, entitled 'An act to amend the forty-sixth section of an act, approved the thirteenth day of June, Anno Domini one thousand eight hundred and thirty-six, entitled 'An act relating to roads, highways and bridges,' authorizing the construction of bridges on the line of adjoining counties, or located within one-fourth of a mile from the county lines,' approved the twenty-third day of April, Anno Domini one thousand nine hundred and three."

This bill is not approved, for the reason that the subject of the bill is not expressed in its title, as required by Article III, Section 3, of the Constitution.

SAML. W. PENNYPACKER.

No. 32.

AN ACT

Authorizing the Governor of the Commonwealth to correct the military record of A. O. Tinstman.

Whereas, the Fifty-fourth Pennsylvania Militia Regiment, known as an emergency regiment, was organized in one thousand eight hundred and sixty-three, just prior to the battle of Gettysburg, and that the said A. O. Tinstman was appointed and served as a captain in said regiment, commanding company "G," and as such was mustered out of the service, and paid off in such grade by the State;

And whereas, there is no known record of any commissions being issued to the officers of said regiment, which should in justice be done; therefore,

Section 1. Be it enacted, &c., That the Governor of the Commonwealth be and is hereby authorized, upon satisfactory evidence that the statement set forth in the foregoing preamble are true, to issue a commission to the said A. O. Tinstman, reciting upon the face of said commission the facts as ascertained.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 14, 1905.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 121, entitled "An act authorizing the Governor of the Commonwealth to correct the military record of A. O. Tinstman."

The purpose of this bill is to authorize the Governor of the Commonwealth to issue a commission as captain, for military services alleged to have been rendered forty-two years ago. It is difficult to understand how the services could have been rendered, or the authority of a captain exercised, if no commission was issued at the time. If the Government of the United States or of the Commonwealth failed to issue commissions to its military officers, it would seem to be too late to rectify the error at this time. The difficulties in the way of the ascertainment of the facts are very great. If a commission were to be issued to one captain, similar commissions ought to be issued to all the other officers of the regiment, and regiments of a like character, if such there were. Such a course would be to attempt to renovate the events of the past, and might be extended to the War of 1812 and the Revolution. A commission issued now would be an incongruity, and possess little or no value for the officer who should hold it.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 33.

AN ACT

To validate acts done by corporations before the recording of their charters.

Section 1. Be it enacted, &c., That where, heretofore, any act has been done, or transfer or conveyance of any property has been made, to or by any corporation created or intended to be created by virtue of the provisions of the act of Assembly, approved April twenty-ninth, one thousand eight hundred and seventy-four, or its supplements, in good faith, after the issuing of letters patent, and before the actual record of the certificate, such acts, transfers and conveyances shall, after said certificate has been duly recorded as provided in the said act, be deemed and taken to be valid and effectual for all purposes: Provided, This act shall not affect any proceeding now pending.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 14, 1905.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 142, entitled "An act to validate acts done by corporations before the recording of their charters."

The bill provides that where heretofore any act has been done

by any corporation created under the provisions of the act of April 29, 1874, after the issuing of letters patent and before the recording of the certificate, it shall, after the certificate has been recorded, be valid and effectual. This bill belongs to a class of legislation which is not to be commended. If the requirements of acts of Assembly may be violated or neglected by corporations, and nevertheless their proceedings be made valid by subsequent general acts, it, at least, encourages carelessness and inattention. Such validating acts ought to be given the closest scrutiny, in order to see that general words do not produce results beyond the intention of the Legislature. In the present instance, the bill would enable the certificate to be recorded, at any length of time after the letters patent have been issued. The directions of the act of 1874 could be neglected, and the expense saved, with full assurance that at any time thereafter the consequences of such failure could be overcome. The terms of the bill provide for the validation of "any act" of the corporation. Every charter has certain limitations, and an act done by a corporation may have been beyond its power or, for other causes, illegal.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 34.

AN ACT

To provide for the reconstruction and maintenance of public highways or parts of public highways, by the State Highway Department, that pass through or touch upon lands owned by this Commonwealth, and making an appropriation therefor.

Section 1. Be it enacted, &c., That from and after the passage of this act, the public highways, or parts of public highways, that pass through or touch upon lands owned by the Commonwealth, are to be reconstructed, rebuilt and maintained under the direction and by the authority of the State Highway Department.

Section 2. That the State Highway Commissioner is hereby authorized and directed to assume control of the public highways or parts of highways, as aforesaid, to make drafts and surveys of the same; and shall have full authority to proceed, as he may deem fit and proper, and properly reconstruct, rebuild and maintain such public highway, or parts of highways, that pass through or touch upon lands owned by this Commonwealth; and shall also submit to the Governor of the Commonwealth a biennial report of the operations of the Department; the number of miles or parts of miles, and the cost, of public highways, or parts of public highways, built under his direction.

Section 3. That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated to the State Highway Department, to be used exclusively for the purpose aforesaid; and shall be paid by the State Treasurer, upon warrants properly drawn against said fund by the State Highway Commissioner.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 14, 1905.

I file herewith, in the Office of the Secretary of the Commonwealth, House bill No. 159, entitled "An act to provide for the reconstruction and maintenance of public highways or parts of public highways, by the State Highway Department, that pass through or touch upon lands owned by this Commonwealth, and making an appropriation therefor."

This bill provides that "the public highways, or parts of public highways, that pass through or touch upon lands owned by the Commonwealth, are to be reconstructed, rebuilt and maintained under the direction and by the authority of the State Highway Department," and it makes an appropriation of $25,000 annually, to be expended in the maintenance of these highways. Much the greater part of the lands owned by the Commonwealth are those owned as a Forestry Reserve. By the act of April 5th, 1905, which was passed at the present session of the General Assembly, it was provided that these lands shall be subject to an annual charge of "two cents per acre for the benefit of the roads in the townships where said reserve or reserves are located." If the present bill should become a law, the Commonwealth would not only pay this annual charge upon all of its forestry lands, but would likewise reconstruct and maintain the roads which run through them. In other words, it would pay twice for the same thing.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 35.

AN ACT

To provide for, and authorizing the appointment of, a stenographer in cases of inquest, in the several counties of this Commonwealth containing not less than one hundred thousand (100,000), nor more than one hundred and twenty-five thousand (125,000), population, and regulating the duties and fees of same.

Section 1. Be it enacted, &c., That it shall be the duty of the coroner of each of the several counties of this Commonwealth, containing not less than one hundred thousand (100,000) nor more than one hundred and twenty-five thousand (125,000), population, if necessary, or at their discretion, to appoint, with the approval and consent of the courts, a stenographer.

Section 2. The stenographer so appointed shall be competent in the practice and discharge of his or her acts or duties, and shall be duly qualified, under oath, to perform his or her duty with fidelity.

Section 3. It shall be the duty of said stenographer to take full stenographic notes of the testimony in cases of inquest, together with all questions, answers, rulings, or remarks of coroner or witness, relating to the said inquest, and which are made in the presence of the jury or at the inquest, in any and all stages of its proceedings. Said notes shall be transcribed in typewriting or written in longhand, and filed, with the coroner's return, in the office of the

clerk or prothonotary of the courts. Said notes shall be deemed and held to be official, and the best authority in any matter of dispute; and a copy of same, duly certified by the clerk or prothonotary of the courts, under the seal of the court, shall be used by the parties in the cause in any further proceedings, whenever the use of the same may be required.

Section 4. Said stenographer shall be paid a compensation at the rate of six per day, seven hours' work to constitute a day, and to be paid out of the funds of the county, by the county commissioners, upon order of the court, in the same manner and way as is the coroner.

Section 5. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 14, 1905.

I file herewith, in the Office of the Secretary of the Commonwealth, House bill No. 194, entitled "An act to provide for, and authorizing the appointment of, a stenographer in cases of inquest, in the several counties of this Commonwealth containing not less than one hundred thousand (100,000), nor more than one hundred and twenty-five thousand (125,000), population, and regulating the duties and fees of same.

The object of this bill is to provide for the appointment of stenographers by the coroners of the different counties. Section four directs, "said stenographer shall be paid a compensation at the rate of six per day, seven hours to constitute a day." Whether the compensation per day is to be six dimes, six dollars or six eagles the bill does not determine. Why seven hours work should constitute a day is not apparent.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 36.

AN ACT

Prohibiting commissioners of townships of the first class from hereafter establishing or constructing any sewer or system of sewers or drains, in such townships without first obtaining the consent, in writing, of the owners of one-half of the feet front upon the line or lines of said proposed sewer or system.

Section 1. Be it enacted, &c., That the township commissioners of townships of the first class shall not hereafter establish or construct, or cause to be established or constructed, any sewer or system of sewers or drains, in such townships, without first obtaining the consent, in writing, of the owners of one-half of the feet front upon the line or lines of said proposed sewer or system: Provided, That this act shall not apply to any sewer or system of sewers or drains now in the process of construction, or heretofore authorized by ordinance to be constructed.

Section 2. That all laws or parts of laws inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 17, 1905.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 273, entitled "An act prohibiting commissioners of townships of the first class from hereafter establishing or constructing any sewer or system of sewers or drains, in such townships, without first obtaining the consent, in writing, of the owners of one-half of the feet front upon the line or lines of said proposed sewer or system."

The purpose of this bill is to forbid the commissioners of townships of the first class to construct a sewer or system of sewers "without first obtaining the consent, in writing, of the owners of one-half of the feet front upon the line or lines of said proposed sewer or system." The disposition of sewage is a matter which concerns the health of the people, and the provision for it appears to be a matter which ought to be within the control of the municipality or of the township. This bill would take away the question of the determination of when and where a sewer ought to be constructed, from the township officials, and would vest it in the owners of the property along the line of the proposed sewer. Oftentimes it happens that these property owners have little real interest in the question, except the interest which comes from an effort to save expense. A village community might be deprived of the benefit of a sewage system, through the opposition of one property owner who owns more than one-half of the frontage along the proposed line. It would seem to be better to leave the matter within the control of the townships.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 37.

AN ACT

To regulate the pay of jurors in this Commonwealth.

Section 1. Be it enacted, &c., That section one of "An act, entitled 'An act to increase the pay of jurors in this Commonwealth,'" approved the twenty-eighth day of February, Anno Domini one thousand eight hundred and seventy-three, which reads as follows, namely:

"Section 1. Be it enacted, &c., That from and after the passage of this act, the pay of jurors in this Commonwealth shall be two dollars a day, with mileage as now allowed by law: Provided, That the provisions of this act shall not apply where the pay of jurors is now fixed by law at more than two dollars per day," be and the same is hereby amended so that the said act shall read as follows, namely:

That from and after the passage of this act, the pay of jurors in

this Commonwealth shall be two dollars per day, including a full day's compensation for every day or fraction thereof required in going to or returning from the county-seat, or other places where courts are held, with mileage as now allowed by law: Provided, That the provisions of this act shall not apply where the pay of jurors is now fixed by law at more than two dollars per day.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 17, 1905.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 504, entitled "An act to regulate the pay of jurors in this Commonwealth."

The bill, in its enacting clause, undertakes to amend section 1 of the act of February 28, 1873. In the title there is no reference to this purpose of amendment, as the Constitution requires.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 38.

AN ACT

To amend section three of an act, entitled "An act to carry into effect section five of article fourteenth of the Constitution, relative to the salaries of county officers, and the payment of fees received by them into the State or county treasury, in counties containing over one hundred and fifty thousand inhabitants," approved the thirty-first day of March, Anno Domini one thousand eight hundred and seventy-six.

Section 1. Be it enacted, &c., That section three of an act, entitled "An act to carry into effect section five of article fourteen of the Constitution, relative to the salaries of county officers, and the payment of fees received by them into the State or county treasury, in counties containing over one hundred and fifty thousand inhabitants," approved the thirty-first day of March, Anno Domini one thousand eight hundred and seventy-six, which reads as follows:

"If any of the officers included in this act shall receive, or stipulate to receive, from any deputies or clerks appointed by, or from any person or persons awarded any contract for advertising or any other contract, any sum or sums of money as percentage, on the salaries of said deputies or clerks, or on the amounts or profits of said contracts, or any sum or sums of money whatsoever, as compensation for making any of the said appointments or contracts, or shall neglect to render the accounts or to pay over the money received for fees as required by this act, or shall wilfully neglect to make any proper entry in the book or books required to be kept, or shall wilfully neglect to charge for any official services the fees allowed by law, or shall take to his own use any such fees or fail to comply with any of the provisions of this act, or neglect to discharge any of the duties herein imposed, the same shall be deemed a misdemeanor in office, and in addition to the other penalties for such offences, he shall upon conviction thereof, refund the said sum or

sums of money thus unlawfully received and shall be deemed incapable of holding longer the said office," be and the same is hereby amended to read as follows:

If any of the officers included in this act shall receive or stipulate to receive from any deputies or clerks appointed by, or from any person or persons awarded any contract for advertising or any other contract, any sum or sums of money as percentage on the salaries of said deputies or clerks, or on the amounts or profits of said contracts, or any sum or sums of money whatsoever, as compensation for making any of the said appointments or contracts, or shall neglect to render the accounts or to pay over the money received for fees as required by this act, or shall wilfully neglect to make any proper entry in the book or books required to be kept, or shall wilfully neglect to charge for any official services the fees allowed by law, or shall take to his own use any such fees, or fail to comply with any of the provisions of this act or neglect to discharge any of the duties herein imposed, the same shall be deemed a misdemeanor in office, and, in addition to the other penalties for such offences, he shall, upon conviction, refund the said sum or sums of money thus unlawfully received, and shall be deemed incapable of holding longer the said office: Provided, That it shall be lawful for such officer to perform gratuitously, for any honorably discharged soldier, sailor or marine of the military or naval service of the United States, or for his widow or minor children, such official services as may be required in connection with any proceeding pending in the Bureau of Pensions of the United States.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 17, 1905.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, Senate bill No. 385, entitled "An act to amend section three of an act, entitled 'An act to carry into effect Section five of Article fourteenth of the Constitution, relative to salaries of county officers, and the payment of fees received by them into the State or county treasury, in counties containing over one hundred and fifty thousand inhabitants,' approved the thirty-first day of March, Anno Domini one thousand eight hundred and seventy-six."

The title of to this bill does not set forth the subject of the proposed enactment, as required by the Constitution.

For this reason the bill is not approved..

SAML. W. PENNYPACKER.

No. 39.

AN ACT

Regulating the payment of retail liquor license-fees in this Commonwealth.

Section 1. Be it enacted, &c., That every person in this Commonwealth, to whom the court of quarter sessions sitting for the pur-

pose of granting retail liquor licenses, may grant a license to sell liquor at retail, shall have until the day preceding the commencement of the term of said license to pay the fee fixed by law for said license. If the decree or order of court, however, granting said licenses, shall be filed with the clerk of the court of quarter sessions within ten days of the commencement of the term, then the said licensee shall have fifteen days thereafter in which to pay the same.

Section 2. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 17, 1905.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, Senate bill No. 442, entitled "An act regulating the payment of retail liquor license fees in this Commonwealth."

The bill provides "that every person in this Commonwealth, to whom the court of quarter sessions, sitting for the purpose of granting retail liquor licenses, may grant a license to sell liquor at retail, shall have until the day preceding the commencement of the term of said license to pay the fee fixed by law for said license. If the decree or order of court, however, granting said licenses, shall be filed with the clerk of the court of quarter sessions within ten days of the commencement of the term, then the said licensee shall have fifteen days thereafter in which to pay the same."

It is unfair to the licensee that he should be required, as some times happens, to pay his license-fee several months before the term of the license begins, and it would be well by legislation to prevent such unfairness. The right way would be to require the court to file its decree a reasonable length of time before the term begins, and to permit the licensee to pay his fee on any day which would allow a reasonable interval before such beginning of the term. The plan proposed by the bill would lead to practical difficulties. The license-fee under the law is to be paid to the county treasurer, a receipt is then given, and the licensee files the receipt with the clerk of the quarter sessions, and this must be done before the license is issued.

In large cities, like Philadelphia and Pittsburg, where there are many hundreds of licenses, it would be great inconvenience to permit the fees to be paid at any time on the day before the licenses are to be issued. The provision that when the court files its decree within ten days of the commencement of the term, the licensee shall have fifteen days thereafter in which to pay the fee, leads to inconvenience of another kind. A license might then be issued five days after the beginning of the term, purporting to give authority to sell liquor from the beginning of the term. It is unwise to create a legal incongruity when there is no necessity for it. The licensee might also be deprived of the benefit of his license for five days.

All of these difficulties can easily be obviated by having the necessary acts done a reasonable time before the beginning of the term.

For this reason the bill is not approved..

SAML. W. PENNYPACKER.

No. 40.

AN ACT

Providing a penalty for making usurious loans.

Section 1. Be it enacted, &c., That any person who takes security upon any household furniture, sewing machines, musical instruments, plate or silverware, in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, or conditioned upon the payment of a greater rate than six per centum per annum, or as security for such loan or sale of personal credit, as aforesaid, makes a pretended purchase of such property from any person upon the like condition, and permits the pledger to retain possession thereof, shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars or undergo an imprisonment for a period not exceeding one year, either or both, at the discretion of the court.

Section 2. Any bonus or premium in excess of six per centum per annum interest on any sum paid to secure a loan, or use of money or credit, shall be computed as excess interest on the principal of such sum, and any person offending against this section shall, on conviction thereof, be subject to the same penalty as set forth in section one: Provided, That this act shall not apply to any building and loan association, trust company or State bank whose charter now permits a charge of interest in excess of six (6) per centum per annum.

Section 3. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 18, 1905.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, Senate bill No. 435, entitled "An act providing a penalty for making usurious loans."

This bill proposes to add to our system of jurisprudence another crime, and makes a transaction founded upon a contract concerning moneys punishable by imprisonment for a year. It provides that any person making a loan at a greater rate of interest than six per centum per annum, and taking as security household furniture, sewing machines, musical instruments, plate or silverware in actual use, tools or implements of trade, wearing apparel, or jewelry, shall be guilty of a misdemeanor. Section two of the bill makes subject to the same penalties any person who shall take "any bonus or premium in excess of six per centum per annum interest on any sum

paid to secure a loan, or use of money or credit." There is a proviso to the effect "that this act shall not apply to any building or loan association, trust company or state bank whose charter now permits a charge of interest in excess of six per centum per annum." The proviso makes entirely clear the impropriety of having this bill become a law. The individual is to be imprisoned for doing that, which in the case of certain corporations is made lawful. The inconsistency is manifest.

For this reason the bill is not approved..

SAML. W. PENNYPACKER.

No. 41.

AN ACT

To empower any taxpayer of any township, borough, or school-district, upon providing for costs, to appeal in behalf of such municipality, to the courts of common pleas of the proper county, from the judgment of any justice of the peace or alderman against such municipality, and to become a party to such suit.

Section 1. Be it enacted, &c., That in all cases where a judgment shall be rendered by any justice of the peace or alderman against any township, borough, or school-district of this Commonwealth, either plaintiff or defendant, in which by existing laws the right of appeal is given to such municipality, any taxpayer of such township, borough, or school-district may take an appeal, in behalf of such municipality, from such judgment, to the court of common pleas of the proper county, within the time prescribed by law for taking such appeal, if for a period of days, immediately after the rendition of the judgment, the proper municipal officials neglect or refuse to take and perfect such appeal, and file the same in said court: Provided, That such taxpayer shall, in taking the appeal, make an affidavit that the same has been done, and shall pay the costs of the appeal, and enter good and sufficient bail for the payment, on the affirmance of the judgment of all other costs before the justice or alderman and all the costs in the court of common pleas.

Section 2. That upon filing the said appeal in the court of common pleas of the proper county, the said taxpayer shall be made a party to the suit, and shall have the right to prosecute or defend the same, in behalf of said municipality.

Section 3. All laws or parts of laws inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 18, 1905.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 357, entitled "An act to empower any taxpayer of any township, borough or school-district, upon providing for costs, to appeal, in behalf of such municipality, to the courts of common pleas of the proper county, from

the judgment of any justice of the peace or alderman against such municipality, and to become a party to such suit."

This bill provides that in all cases where a judgment shall be rendered by any justice of the peace or alderman against any township, borough or school-district, where by existing laws the right of appeal is given to the municipality, any tax-payer of the township, borough or school-district may appeal in behalf of the municipality "if for a period of days, immediately after the rendition of the judgment, the proper municipal officials neglect or refuse to take and perfect such appeal, and file the same in said court." No doubt there is an evil existing somewhere in the Commonwealth, which this bill is intended to remedy. The principle invoked is of dubious merit, since it proposes to take the authority away from the proper municipal officials, in whom it has been vested by the people, and give it to any tax-payer, who may be irresponsible or even malicious. It would certainly lead to confusion of administration. The bill must, however, in any event, be disapproved for another reason. It was manifestly intended that a certain number of days should be permitted to intervene after the rendition of the judgment, during which the officials should have the opportunity to take an appeal, if they should consider it necessary. By some oversight a word has been omitted before the word "days," and, therefore, the intended period of time is not defined.

For this reason the bill is not approved..

SAML. W. PENNYPACKER.

No. 42.

AN ACT

To amend section one of an act, entitled "An act to prevent the opening of streets or public roads through burial-grounds, and for the protection of cemeteries and graveyards," approved April fifth, one thousand eight hundred and forty-nine.

Section 1. Be it enacted, &c., That section one of an act, entitled "An act to prevent the opening of streets or public roads through burial-grounds, and for the protection of cemeteries and graveyards," approved April fifth, one thousand eight hundred forty-nine, which reads as follows:

"Section 1. Be it enacted, &c., That it shall not be lawful to open any street, lane, alley or public road through any burial-ground or cemetery within this Commonwealth, any laws heretofore passed to the contrary, notwithstanding: Provided, That this section shall not extend to the city and county of Philadelphia," be and the same is hereby amended to read as follows:

Section 1. Be it enacted, &c., That it shall not be lawful to open any street, lane, alley or public road through any burial-ground or cemetery within this Commonwealth, any laws heretofore passed to the contrary, notwithstanding: Provided, That this section shall not extend to the city and county of Philadelphia: Provided also, That where any street, lane, alley or public road, in actual and continuous use, bounds or adjoins a cemetery, such lane, alley or public road may be widened according to law, as in other cases.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House bill No. 419, entitled "An act to amend section one of an act, entitled 'An act to prevent the opening of streets or public roads through burial-grounds, and for the protection of cemeteries and graveyards,' approved April fifth, one thousand eight hundred forty-nine."

This bill appears to be unnecessary. It was held in effect, in the case of in re. Twenty-second Street (102 Pennsylvania, page 108), that the act which the bill proposes to amend has been repealed by the act of June 8, 1881 (P. L., 68). The authority which the bill proposes to give has apparently already been granted by the act of 1881.

For this reason the bill is not approved..

SAML. W. PENNYPACKER.

No. 43.

AN ACT

To grant a pension to Charles J. Taylor, late of B company, Tenth regiment, National Guard of Pennsylvania.

Whereas, Charles J. Taylor, a private in B company, Tenth regiment of the National Guard of Pennsylvania, while in the line of duty at Homestead, in Allegheny county, under the call of the Governor of this Commonwealth, between the eleventh day of July, one thousand eight hundred and ninety-two, and the tenth day of of August, one thousand eight hundred and ninety-two, at Homestead, did incur, as the consequence of exposure to heavy rains and cold nights, such permanent physical disabilities as greatly and almost totally disqualifying him from obtaining a living by manual labor; therefore,

Section 1. Be it enacted, &c., That the State Treasurer be authorized and directed to place the name of Charles J. Taylor, late a private in B company, Tenth regiment of the National Guard of Pennsylvania, on the pension rolls of this Commonwealth, and to pay him in semiannual installments, out of any money in the Treasury not otherwise appropriated, an annuity of ninety-six dollars, so long as said disability continues, the same to be computed from the first day of January, Anno Domini one thousand eight hundred and ninety-two.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 490, entitled "An act to grant a pension to Charles J. Taylor, late of B company, Tenth regiment, National Guard of Pennsylvania."

For reasons given in the cases of the applications of George S. Granger, March 20, 1903 (see Vetoes, page 11), and of Thomas W. Young, March 27, 1903 (see Vetoes, page 17), and numerous other cases, this bill is not approved. If such pensions are to be granted, it ought to be done by some general legislation providing for the ascertainment of the facts and determining the sums to be paid.

SAML. W. PENNYPACKER.

No. 44.

AN ACT

Granting a pension to Edwin Hatch, of Erie county, father of the late Ryland Hatch, who died in military service of the state during the riots of one thousand eight hundred and seventy-seven, while a member of Company A, Seventeenth regiment infantry, National Guard of Pennsylvania.

Whereas, Ryland Hatch, a private soldier in Company A, commanded by Captain Isaac B. Brown, of the Seventeenth Regiment Infantry, National Guard of Pennsylvania, died in the service of the State, on the third day of August, one thousand eight hundred and seventy-seven, as a result of exposure and fatigue, in a forced march from Corry to Franklin, Pennsylvania, and also from exposure at Pittsburg, while in the service of the State, in obedience to military orders by the Governor; and

Whereas, The said Ryland Hatch was the only support and dependence of his father, Edwin Hatch, who from physical disability was unable to maintain himself, and who is now in very destitute and needy circumstances, having no home nor any means of support, and relying entirely upon the charity of others; and

Whereas, A gratuity of two hundred dollars was given to the said Edwin Hatch, on account of the death of his son Ryland Hatch, as appears by the act of Assembly of one thousand eight hundred and seventy-nine (Pamphlet Laws page one hundred and eighty-four); therefore,

Section 1. Be it enacted, &c., That the State Treasurer be and he is hereby authorized and required to pay, out of any money in the State Treasury not otherwise appropriated, a quarterly payment of twenty-four dollars as a pension to the said Edwin Hatch, on account of the death of his son in the service of the State, as aforesaid; said pension to continue during the remainder of the life of the said Edwin Hatch, and to be paid on warrant of the Auditor General, in the usual form; said pension to commence from the date of the approval of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 435, entitled "An act granting a pension to Edwin Hatch, of Erie county, father of the late Ryland Hatch, who died in military service of the State, during

the riots of one thousand eight hundred and seventy-seven, while a member of Company A, Seventeenth Regiment, Infantry, National Guard of Pennsylvania."

For the reasons which are set forth in the message accompanying House bill No. 490, this bill is not approved.

SAML. W. PENNYPACKER.

No. 45.

AN ACT

Granting a pension to Charles H. Knox, of Philadelphia county, Pennsylvania, late of Independent Regiment, Pennsylvania Volunteer Cavalry, "Emergency Men of One Thousand Eight Hundred and Sixty-three."

Whereas, Charles H. Knox, a private in Independent Regiment, Pennsylvania Volunteer Cavalry, "Emergency Men of one thousand eight hundred and sixty-three," mustered into the service of the State of Pennsylvania July second, Anno Domini one thousand eight hundred and sixty-three, and served in such capacity until September sixteenth, Anno Domini one thousand eight hundred and sixty-three;

And whereas, By reason of advanced age and nearly total loss of eyesight, he is nearly incapacitated for the performance of manual labor, and, having no property, is devoid of means of support;

And whereas, By reason of the length of the term of his service, no pension can be granted him under the existing laws of the United States, therefore:

Section 1. Be it enacted, &c., That the State Treasurer is hereby directed to pay, out of any moneys appropriated for the payments of pensions, or out of any moneys in the Treasury not otherwise appropriated, to the said Charles H. Knox, of Philadelphia county, State of Pennsylvania, a monthly pension, during life, of twelve dollars, commencing on January first, Anno Domini one thousand nine hundred and five.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 244, entitled "An act granting a pension to Charles H. Knox, of Philadelphia county, Pennsylvania, late of Independent Regiment Pennsylvania Volunteer Cavalry "Emergency Men of Ono Thousand Eight Hundred and Sixty-three."

For the reasons which are set forth in the message accompanying House bill No. 490, this bill is not approved.

SAML. W. PENNYPACKER.

No. 46.

AN ACT

For the relief of Captain Alexander Wishart; providing for his reimbursement for moneys expended in maintaining Company K, Eighth Regiment, Pennsylvania Reserve Volunteer Corps, in the year one thousand eight hundred and sixty-one, and making an appropriation therefor.

Whereas, On the twentieth day of April, one thousand eight hundred and sixty-one, Alexander Wishart, of the borough of Washington, in Washington county, Pennsylvania, organized a company which afterwards became Company K, Eighth Regiment, Pennsylvania Volunteer Reserve Corps, of which company the said Alexander Wishart was subsequently commissioned by the Governor of Pennsylvania as Captain, the commission to date from the day aforesaid;

And whereas, On April twenty-second, one thousand eight hundred and sixty-one, after tendering to the Governor of Pennsylvania the services of said company, the said Captain Wishart was directed by the Governor to hold the said company together, in readiness to enter into the service of the Commonwealth of Pennsylvania; in pursuance of which direction the said Captain Wishart did hold together, and drill the said company at Washington, Pennsylvania, furnishing to members thereof at his own expense necessary boarding, maintenance and clothing, from the date last aforesaid until the fifth day of June, one thousand eight hundred and sixty-one, at which latter date the said company, in accordance with orders received by authority of the Governor, proceeded to Camp Wright, in Allegheny county, Pennsylvania, and thereafter continued in the service of the State of Pennsylvania until mustered into the service of the United States, in July of the same year;

And whereas, In the year one thousand eight hundred and sixty-two or one thousand eight hundred and sixty-three, the said Alexander Wishart presented and filed with the Auditor General of Pennsylvania a claim for reimbursement of the expense, so as aforesaid incurred, for the maintenance of the said company prior to June fifth, one thousand eight hundred and sixty-one, together with an itemized account thereof, exhibiting expenditures for the purpose aforesaid aggregating more than nine hundred dollars, accompanied by vouchers therefor, which papers have been lost or destroyed, and no part of the said claim has been paid; therefore,

Section 1. Be it enacted, &c., That the Auditor General is hereby authorized and directed to compromise and settle the aforesaid claim of Captain Alexander Wishart, at and for the sum of nine hundred dollars; and upon the acceptance of such compromised by the said Alexander Wishart, and the execution and delivery by him of a proper release of said claim, to draw a warrant upon the State Treasurer for the sum of nine hundred dollars, in favor of the said Alexander Wishart, in payment of said claim. The sum of nine hundred dollars is hereby appropriated for that purpose; this appropriation to revert to the State Treasury if said compromise be not accepted, as aforesaid, on or before the close of the fiscal year commencing June first, one thousand nine hundred and five.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 726, entitled "An act for the relief of Captain Alexander Wishart; providing for his reimbursement for moneys expended in maintaining Company K, Eighth Regiment, Pennsylvania Reserve Volunteer Corps, in the year one thousand eight hundred and sixty-one, and making an appropriation therefor."

This bill provides for an appropriation of $900.00, to be paid to Alexander Wishart for a claim against the Commonwealth, which originated in 1861, forty-four years ago. If the facts, which are set forth in the various preambles of this bill, are correct, it would appear that the claimant has a just demand against the Commonwealth, for which he ought to be reimbursed; but proper care ought to be exercised to prevent the Commonwealth from being imposed upon by unjust and belated demands. The proper course would be for the Legislature to pass an act permitting the claimant to bring suit against the Commonwealth in the courts, and then there may be a proper ascertainment of the facts and determination of the justice of the claim.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 47.

AN ACT

Making an appropriation to Charles H. Knelley.

Whereas, During the year one thousand eight hundred and ninety-seven it became necessary to impress into service the National Guard of the State of Pennsylvania, for the purpose of preserving order and conserving the peace in and around the city of Hazelton, Pennsylvania, and the Twelfth Regiment of the National Guard of the State of Pennsylvania was among those detailed to perform such duty; and

Whereas, To subserve the convenience of the said regiment, and to provide and afford proper conveniences for said regiment, lumber and building material to the value of four hundred and eight dollars and fourteen cents were utilized by said regiment, from the lumberyards of Charles H. Knelley, in the said city of Hazelton, which said lumber-yards were in close proximity to the site selected as camp of the National Guard, for which said lumber no compensation or payment has ever been received by the said Charles H. Knelley; now, therefore,

Section 1. Be it enacted, &c., That the sum of four hundred eight and fourteen one-hundredth ($408.14) dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to Charles H. Knelley, of Hazelton, Pennsylvania, in com-

pensation of the lumber and building material thus utilized by the said Twelfth Regiment of the National Guard of Pennsylvania.

Section 2. That before warrant shall be drawn for any amount of this appropriation, or for any part thereof, it shall be the duty of the said Charles H. Knelley to furnish satisfactory proof to the Auditor General of the correctness of the charges made for said lumber and building material, and upon the approval of the said bill in its entirety, or any part thereof, by the Auditor General, warrants shall be drawn for the amounts thus approved.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 725, entitled "An act making an appropriation to Charles H. Knelley."

For the reasons which are set forth in the message accompanying House bill No. 726, this bill is not approved.

SAML. W. PENNYPACKER.

No. 48.

AN ACT

Relative to the settlement of a certain military claim due Edward Monahan, a Pennsylvania soldier, and making an appropriation therefor.

Whereas, Among a number of military claims, adjudiciated and filed in the Auditor General's office in one thousand eight hundred and sixty-four, is that of Edward Monahan, second lieutenant in Company G, Fifty-eighth Pennsylvania Volunteers, for three months service, amounting to three hundred sixteen and fifty-one hundredth dollars, which claim remains unpaid, but which among other claims was authorized to be settled under the act of the General Assembly approved the sixteenth day of April, Anno Domini one thousand eight hundred and sixty-two, and the several supplements thereto;

And whereas, When this claim is settled and paid, and duly certified to the Government of the United States, the Commonwealth, under existing laws, is reimbursed for the money so expended;

And whereas, Previous appropriations made for the settlement of said claims have been exhausted, on claims heretofore filed; therefore,

Section 1. Be it enacted, &c., That the sum of three hundred sixteen and fifty-one hundredth dollars be and the same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the payment of said claim, now on file in the Auditor General's office, under and in pursuance of the act of the General Assembly, approved the sixteenth day of April, Anno Domini one thousand eight hundred and sixty-two, and the several supplements thereto.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 727, entitled "An act relative to the settlement of a certain military claim due Edward Monahan, a Pennsylvania soldier, and making an appropriation therefor."

For the reasons which are set forth in the message accompanying House bill No. 726, this bill is not approved.

SAML. W. PENNYPACKER.

No. 49.

AN ACT

Providing that it shall be the duty of the Department of Public Health and Charities, or its duly authorized and constituted agents, in cities of the first class, to remove in a speedy and safe manner the bodies of all animals dying within the limits of said city; and providing that a notice of the death of such animal or animals shall be given by the owner or owners thereof to the said Department, within two hours after such death; and to prohibit the removal of such body or bodies of dead animals by any person, persons or corporation, unless the same be done under the authority and direction of the said Department of Public Health and Charities, of such cities; and prescribing a penalty therefor.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be the duty of the Department of Public Health and Charities, or its duly authorized and constituted agents, to remove promptly and in a safe and sanitary way the bodies of all animals dying within the limits of cities of the first class; said removals to be made in vans or carts provided for that purpose by the said Department, or its duly authorized and constituted agents, within two hours after notice is given of the death of said animals, and that the same shall be disposed of by cremation or otherwise, as the said Department of Public Health and Charities may direct.

Section 2. It shall be the duty of the owner of any animal dying within the city limits of cities of the first class, to notify the Department of Public Health and Charities, within two hours of the death of such animal; and any person, firm, partnership or corporation, owning said animal at the time of its death, who shall neglect or fail to give the Department of Public Health and Charities notice of such death, within two hours of the same, shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of fifty ($50,00) dollars.

Section 3. It shall be unlawful for any person, persons, firm, partnership or corporation to remove or have removed the body of any such animal, dying within the city limits of said cities of the first class, without first having obtained authority from the Department of Public Health and Charities of such cities; and if any person, persons, firm, partnership or corporation shall remove or have removed the body of such animal without authority having first been obtained, he or they shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of fifty ($50.00) dollars.

Section 4. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, House bill No. 418, entitled "An act providing that it shall be the duty of the Department of Public Health and Charities, or its duly authorized and constituted agents, in cities of the first class, to remove in a speedy and safe manner the bodies of all animals dying within the limits of said city; and providing that a notice of the death of such animal or animals shall be given by the owner or owners thereof to the said Department, within two hours after such death; and to prohibit the removal of such body or bodies of dead animals by any person, persons or corporation, unless the same be done under the authority and direction of the said Department of Public Health and Charities, of such cities; and prescribing a penalty therefor."

Section one of this bill provides that it shall be the duty of the Department of Public Health and Charities to remove "the bodies of all animals dying within the limits of cities of the first class," and that they shall be disposed of by cremation or otherwise, as the Department may direct. Section two makes it a misdemeanor, punishable by a fine of $50.00, for the owner to "neglect or fail to give the Department of Public Health and Charities notice of such death, within two hours of the same." Section three makes it a misdemeanor, punishable by a like fine, for the owner, without authority, to remove the body of any such animal, "dying within the city limits." The language of the first section of the bill covers a broad field. After the throat of a hog or a calf is cut by the butcher, the blood escapes from the veins and the arteries, and presently the animal dies for the lack of this necessary supply. It was probably intended that the section should only apply to animals dying of disease, but there are no words which in any way restrict this general application. The bodies of many animals, such as horses, cows and hogs, though dying of disease, have often a value, and the bodies of some of them, such as elephants and buffaloes, would have a very considerable value. The Constitution provides that private property cannot be taken for public use, or be injured or destroyed without just compensation. This bill provides for no compensation. Under the terms of section two, the failure to give notice by the owner, within two hours, is made the subject of a severe penalty. A horse may die in a stable or at night, and the fact be unknown for a much longer period than two hours. A poor carter, who is dependent for his livelihood upon his horse and cart, is suddenly confronted with the death of the animal in the street. It requires some time to get his cart and harness to a place of safety, especially if his cart is loaded; and, if two hours elapse, he loses not only the value of the carcass, but is required to pay a fine of $50.00. The provision is more stringent than wise.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 50.

AN ACT

To amend sections two and three of an act, entitled "An act directing the appointment of official stenographers in the several civil courts of this Commonwealth; authorizing the appointment of official stenographers in the several courts of oyer and terminer and general jail delivery and courts of quarter sessions of the peace of this Commonwealth; authorizing the appointment of stenographers by examiners, masters, referees, commissioners and auditors; authorizing the appointment of assistant stenographers; repealing 'An act to authorize the appointment of stenographers in the several courts of this Commonwealth, prescribing their duties and fixing their compensation,' approved May fifteenth, one thousand eight hundred and seventy-four; repealing 'An act to authorize the appointment of stenographers in the several courts of this Commonwealth, prescribing their duties and fixing their compensation,' approved May eighth, one thousand eight hundred and seventy-six, and repealing 'An act defining the duty of court stenographers in the several counties of this State,' approved June tenth, one thousand eight hundred and eighty-one," approved the twenty-fourth day of May, one thousand eight hundred and eighty-seven.

Section 1. Be it enacted, &c., That section two of an act, entitled "An act directing the appointment of official stenographers in the several civil courts of this Commonwealth; authorizing the appointment of official stenographers in the several courts of oyer and terminer and general jail delivery and courts of quarter sessions of the peace of this Commonwealth; authorizing the appointment of stenographers by examiners, masters, referees, commissioners and auditors; authorizing the appointment of assistant stenographers; repealing 'An act to authorize the appointment of stenographers in the several courts of this Commonwealth, prescribing their duties and fixing their compensation,' approved May fifteenth, one thousand eight hundred and seventy-four; repealing 'An act to authorize the appointment of stenographers in the several courts of this Commonwealth, prescribing their duties and fixing their compensation,' approved May eighth, one thousand eight hundred and seventy-six, and repealing 'An act defining the duty of court stenographers in the several counties of this State,' approved June tenth, one thousand eight hundred and eighty-one," approved the twenty-fourth day of May, one thousand eight hundred and eighty-seven, reading as follows:

Section 2. "The law judges of each of the several courts of oyer and terminer and general jail delivery and the courts of quarter sessions of the peace of this Commonwealth are hereby authorized, in their discretion, to appoint a stenographer or stenographers, to be attached to the courts, who shall hold his, her or their position during the pleasure of the court," be and is hereby amended so as to read as follows:

Section 2. The law judges of each of the several courts of oyer and terminer and general jail delivery and the courts of quarter sessions of the peace of this Commonwealth shall appoint a stenographer or stenographers to be attached to the courts, who shall hold his, her or their position during the pleasure of the court.

Also, that section three of said act, which reads as follows:

Section 3. "The stenographer or stenographers so appointed shall be competent in the practice of his, her or their art, and shall duly qualify under oath to perform his, her or their duties with fidelity. It shall be the duty of said stenographer or stenographers to take

full stenographic notes of the testimony in all proceedings in any trial of facts, together with the judge's charge, and together also with every ruling, order and remark of the judge, relating to the case upon the trial, made in the presence and hearing of the jury in any stage of the proceedings, to which either party may except in the same manner and with the same effect as is now practiced in relation to the judge's charge; said notes shall be deemed and held to be official and the best authority in any manner of dispute, and a copy of the same made and filed, as hereinafter provided, or a copy of the same duly certified by the clerk or prothonotary of the court, under the seal of the court, shall be used by the parties to a cause in any further proceedings, whenever the use of the same may be required," be and is hereby amended so as to read as follows:

Section 3. The stenographer or stenographers so appointed shall be competent in the practice of his, her or their art, and shall duly qualify under oath to perform his, her or their duties with fidelity. It shall be the duty of said stenographer or stenographers, in all civil cases in said civil courts, and also in said criminal courts, when requested in criminal cases by the trial judge, the Commonwealth, or any defendant or defendants, to take full stenographic notes of the testimony in all proceedings in any trials of facts, together with judge's charge, and together, also, with every ruling, order and remark of the judge, relating to the case upon the trial, made in the presence and hearing of the jury, in any stage of the proceedings, to which either party may except, in the same manner and with the same effect as is now practiced in relation to the judge's charge; said notes shall be deemed and held to be official and the best authority in any manner of dispute, and a copy of the same made and filed as hereinafter provided, or a copy of the same duly certified by the clerk or prothonotary of the court, under the seal of the court, shall be used by the parties to a cause in any further proceedings, whenever the use of the same may be required.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 76, entitled "An act to amend sections two and three of an act, entitled 'An act directing the appointment of official stenographers in the several civil courts of this Commonwealth; authorizing the appointment of official stenographers in the several courts of oyer and terminer and general jail delivery and courts of quarter sessions of the peace of this Commonwealth; authorizing the appointment of stenographers by examiners, masters, referees, commissioners and auditors; authorizing the appointment of assistant stenographers; repealing 'An act to authorize the appointment of stenographers in the several courts of this Commonwealth, prescribing their duties and fixing their compensation,' approved May fifteenth, one thousand eight hundred and seventy-four; repealing 'An act to authorize the appointment of stenographers in the several courts of this Commonwealth, prescribing their duties and fixing their compensation,' approved May eighth, one thousand eight hundred and seventy-six,

and repealing 'An act defining the duty of court stenographers in the several counties of this State,' approved June tenth, one thousand eight hundred and eighty-one,' approved the twenty-fourth day of May, one thousand eight hundred and eighty-seven.' "

The subject of the proposed amendments is nowhere expressed in the title, as required by Article III, Section 3, of the Constitution.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 51.

AN ACT

To further amend section two of an act, entitled "An act to amend an act, entitled 'An act supplementary to the acts regulating hawkers and peddlers,' approved the sixteenth day of April, Anno Domini one thousand eight hundred and forty," by providing that citizens of this Commonwealth may, without being licensed, vend and sell by hawking and peddling goods of their own manufacture.

Section 1. Be it enacted, &c., That section two of an act, entitled "An act supplementary to the acts regulating hawkers and peddlers," approved the sixteenth day of April, one thousand eight hundred and forty, which reads as follows, namely:

"And if any person, not being licensed as aforesaid (except such whose licenses have or may not be expired), shall be found hawking, peddling or traveling from place to place, through any part of this State, to sell or expose for sale any foreign goods, wares or merchandise, every person so offending against this act shall be liable to a fine of fifty dollars, or, being so qualified by the license, shall refuse on request of any citizens of this State to show his license, every person so offending shall be liable to a fine of twenty dollars, to be recovered and applied in the same manner as is provided for by an act for regulating hawkers and peddlers, and its several supplements, passed the thirtieth day of March, seventeen hundred and eighty-four: Provided, That this act shall not be construed to prevent citizens of this Commonwealth from hawking and peddling goods of their own manufacture," be and is hereby further amended so that the said section two shall read as follows, namely:

And if any person, not being licensed as aforesaid, except such whose licenses have or may not yet be expired, shall be found hawking, peddling or traveling from place to place, through any part of this State, to sell or expose for sale any foreign or domestic goods, wares or merchandise, every person so offending against this act shall be liable to a fine of fifty dollars, or, being so qualified by the license, shall refuse on request of any citizen of this State to show his license, every person so offending shall be liable to a fine of twenty dollars, to be recovered and applied in the same manner as is provided for by the act for regulating hawkers and peddlers, and its several supplements, passed the thirtieth day of March, one thousand seven hundred and eighty-four: Provided, That it shall be lawful for citizens of this Commonwealth to vend and sell, by themselves and by their authorized agents, in any county in this Com-

monwealth, by hawking and peddling any goods of their own manufacture, without being licensed as aforesaid, notwithstanding any acts or parts of acts heretofore enacted to the contrary.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 139, entitled "An act to further amend section two of an act, entitled 'An act to amend an act, entitled 'An act supplementary to the acts regulating hawkers and peddlers,' approved the sixteenth day of April, Anno Domini one thousand eight hundred and forty,' by providing that citizens of this Commonwealth may, without being licensed, vend and sell by hawking and peddling goods of their own manufacture."

A law containing similar provisions was held in Commonwealth against Simons, 15th County Court Reports, page 550, to be in violation of the Constitution of the United States, and, therefore, invalid.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 52.

AN ACT

To provide for the licensing by the Department of Public Health and Charities, in cities of the first class, of any person, other than an institution duly incorporated for the purpose, who takes into custody for hire or reward a child or children under the age of three years; empowering the said Department to provide regulation and inspection for the same, and imposing a penalty.

Section 1. Be it enacted, &c., That any person, other than an institution duly incorporated for the purpose, who shall, in cities of the first class, take into his custody, for hire or reward, a child or children under the age of three years, without having first obtained a license, in writing, so to do from the Department of Public Health and Charities of the city wherein such children are taken into custody, or who, having obtained such a license, shall, after notice of its revocation, continue for more than six days to keep two or more such children in custody, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding one year, either or both.

Section 2. The Department of Public Health and Charities of cities of the first class may grant such licenses, after proper investigation, for a term not exceeding one year. Each license shall state the name of the licensee, the particular premises in which the children may be kept in custody, the number of infants which may be kept there at one time, and shall require that the license be posted in a conspicuous place on the licensed premises. No greater number of infants shall be kept at one time on the premises than is authorized by the license, and no infant shall be kept in a building or

place not designated in the license. A record of licenses issued shall be kept by the said Department of Public Health and Charities.

Section 3. The Department of Public Health and Charities of cities of the first class may revoke such licenses, in its discretion, and shall note such revocation on the face of the record thereof. The said Department shall give written notice of such revocation to the licensee, by delivering the notice to him in person or by leaving it on the licensee's premises.

Section 4. The said Department of Public Health and Charities shall annually, and may at any time, visit and inspect, or designate a person to visit and inspect, premises so licensed.

Section 5. Every such licensee shall keep a record, in a form to be prescribed by the said Department of Public Health and Charities, of every infant received, the date of its reception; its name, age, sex, color, the name and address of the person from whom it was received, and of its parents, the date of its discharge, and the name and address of the person to whom it was delivered upon discharge. Notice of the reception of every such infant, together with the foregoing details, shall be forwarded within twenty-four hours to the Department by the licensee, and a similar detailed notice of the discharge shall be forwarded to the Department by every licensee, and by every person whose license shall have been revoked, and said Department shall preserve a record of said notices and details.

Section 6. Failure to give notice required by section five, or refusal to give information upon request of said Department, or refusal to admit its authorized representatives at any and all times to the licensed premises, shall constitute a misdemeanor, punishable by not more than one hundred dollars fine or by imprisonment for a term not exceeding one year, either or both.

Section 7. Provided, That this act shall not repeal any law or laws relating to the adoption of children by petition to the several courts of the Commonwealth. But all other laws or parts of laws inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 261, entitled "An act to provide for the licensing by the Department of Public Health and Charities, in cities of the first class, of any person, other than an institution duly incorporated for the purpose, who takes into custody for hire or reward a child or children under the age of three years, empowering the said Department to provide regulation and inspection for the same, and imposing a penalty."

This bill provides that any person, "who shall, in cities of the first class, take into his custody, for hire or reward, a child or children under the age of three years," without having first obtained a license, in writing, from the Department of Public Health and Charities, shall be guilty of a misdemeanor, punishable with imprisonment for a year. This bill, no doubt, has a worthy purpose, which it is intended to serve; but this purpose is not sufficiently defined.

The terms in which the bill is drawn would prevent a mother from entrusting a child to a nurse, or from sending it out to the park with a servant. The custody of a child may be given by the parents to other persons for many purposes besides that which is known in popular parlance as "baby farming."

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 53.

AN ACT

To regulate hawking, peddling and vending in townships of the first class; empowering the commissioners thereof to grant licenses therefor, and to fix by ordinance the amount to be paid for such license, and authorizing and imposing fines, penalties and punishments for violations thereof.

Section 1. Be it enacted, &c., That it shall be unlawful for any person to hawk, peddle or vend upon the highways, streets, lanes, alleys, avenues or roads of any township of the first class within this Commonwealth any meat, fish, fruit, produce, vegetables or merchandise, without having first taken out a license therefor as hereinafter provided.

Section 2. The Commissioners of townships of the first class, after the passage of this act, shall be empowered and shall be required to fix by ordinance the amount to be paid for such license, and the time the same shall be granted for, and prescribe and regulate the payment thereof into the treasury of such townships.

Section 3. If any person shall go from place to place to sell or expose for sale any such articles, within the limits of any township of the first class, without a license so to do being by him first obtained therefor, such person shall forfeit and pay the sum of ten dollars ($10). Any justice of the peace within the township, on view, or the information or complaint on oath or affirmation of any other person, shall, and in either case is hereby enjoined to, proceed in a summary way against any such person so offending, to conviction; and in default of immediate payment of said forfeiture, to commit him to the common jail of said county, in which such township is situate, there to be detained until discharged by due course of law.

Section 4. Nothing herein contained shall be construed so as to prevent any citizen of this Commonwealth from hawking, peddling or vending the products of his, her or their farm, garden or dairy, or of goods, wares and merchandise of their own manufacture.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 19, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 388, entitled "An act to regulate hawking, peddling and vending in townships of the first class; empowering the commissioners thereof to grant licenses therefor, and to fix by ordinance the amount to be paid for such li-

cense, and authorizing and imposing fines, penalties and punishments for violations thereof."

A law containing similar provisions was held in Commonwealth against Simons, 15th County Court Reports, page 550, to be in violation of the Constitution of the United States, and, therefore, invalid.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 54.

AN ACT

To empower cities of this Commonwealth owning and operating waterworks systems, and having supply mains passing through or reaching any township, borough or suburban territory within this Commonwealth, to sell water to such incorporated district and to any water company or companies chartered to do business in any such territory.

Section 1. Be it enacted, &c., That any city of the State of Pennsylvania, owning and operating water-works systems, and having supply mains passing through or reaching any township, borough or suburban territory within the Commonwealth, be and is hereby authorized and empowered to sell water to such incorporated district and to any water company or companies chartered to do business in any such territory, at such prices and upon such terms and conditions as may be agreed upon between the water commissioners or councils having control of such works and such chartered water company or companies.

Section 2. That any agreements heretofore made, as herein provided, be and the same are hereby ratified and confirmed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 20, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 68, entitled "An act to empower cities of this Commonwealth owning and operating waterworks systems, and having supply mains passing through or reaching any township, borough or suburban territory within this Commonwealth, to sell water to such incorporated district and to any water company or companies chartered to do business in any such territory."

This bill provides that any city of the Commonwealth owning waterworks, and having supply mains passing through or reaching any township, borough or suburban territory is authorized "to sell water to such incorporated district and to any water company or companies chartered to do business in any such territory." If the power had been limited to selling water to the township, borough or other municipality, it might well be permitted, but the power goes further and authorizes a sale to private water companies. At the present session of the Legislature, a law was enacted taking away the right of eminent domain from these corporations. To permit

such municipalities as have the right to secure the waters of the Commonwealth by the exercise of eminent domain to sell to the water companies, would be indirectly to renew the difficulties which this act was intended to obviate. To permit municipalities to enter into the business of selling water to outsiders for a consideration—in other words to engage in business—would be to allow them to do something outside of their functions. Grants of such authority ought to be made only with the utmost care. The duty of providing for the water-supply for its citizens ought to be performed by the city, and the rights granted to it for that purpose ought not to be bartered away.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 55.

AN ACT

To provide for the election of school-directors, in the several boroughs of this Commonwealth which are divided into wards, by wards.

Section 1. Be it enacted, &c., That in all boroughs in this Commonwealth, which are now or hereafter shall be divided into wards, the school-directors shall be elected by the electors of the respective wards, and not at large, and shall be residents of the ward from which they are elected. The number of school-directors to be elected from each ward, in any borough falling within the provisions of this act, shall be ascertained by dividing the whole number of school-directors, in the respective borough, by the number of wards comprising said borough: Provided, That the number of school-directors to be elected from each ward may be increased or diminished by the court, in the manner now provided by existing laws.

Section 2. That in all boroughs in this Commonwealth, falling under the provisions of section one of this act, in which the school-directors are now elected at large, the qualified voters of each ward in said borough shall, on the third Tuesday of February, one thousand nine hundred and six, elect as many school-directors as the ward is entitled to, under the provisions of the first section of this act. The terms of office of all of said directors shall commence at the beginning of the school year first succeeding their election, and shall expire according to the terms of section three of this act.

Section 3. Immediately proceeding the organization of any school-board, members of which are elected in pursuance of section two of this act, the members of said school-board, elected according to the provisions of this act, shall proceed by lot to divide the wards of their borough into three classes. Those directors elected from wards of the first class shall serve for one year, those directors elected from wards of the second class shall serve for two years, and those directors elected from wards of the third class shall serve for three years. One the third Tuesday of February, one thousand nine hundred and seven, and every three years thereafter, the qualified voters of each of the wards in the first class shall elect school-

directors, for said wards, for the term of three years; and on the third Tuesday of February, one thousand nine hundred and eight, and every three years thereafter, the qualified voters of each of the wards of the second class shall elect school-directors, for said wards, for the term of three years; and on the third Tuesday of February, one thousand nine hundred and nine, and every three years thereafter, the qualified voters of each of the wards in the third class shall elect school-directors, for the said wards, for the term of three years.

Section 4. The school-directors in office under existing laws, at the first election of borough officers next succeeding the passage of this act, shall act jointly with the school-directors who are elected under the provisions hereof, until the expiration of the term of office of the said school-directors then in office; but after their places have become vacant, either by lapse of time or otherwise, their places shall not again be filled, and the office henceforth shall be at an end.

Section 5. This act shall apply to every borough, in this Commonwealth, falling under the provisions of the first section of this act, whether the said borough is now governed by general or special acts of Assembly; and all acts or parts of acts, whether general or special, inconsistent herewith, are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 20, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 180, entitled "An act to provide for the election of school-directors in the several boroughs of this Commonwealth which are divided into wards, by wards."

The purpose of this bill is to provide that in all boroughs of the Commonwealth which are divided into wards, the school-directors shall be elected by the electors of the different wards, and not by the electors of the borough at large. The plan proposed does not appear to have been thought out, in the preparation of the bill, to its conclusions, and would probably lead to difficulties. It is directed that "the number of school-directors to be elected from each ward, in any borough falling within the provisions of this act, shall be ascertained by dividing the whole number of school-directors, in the respective borough, by the number of wards comprising said borough." Since, however, there are no means of knowing how many wards there may be in a borough, it is impossible to say that the number of school-directors in the borough could be divided evenly by the number of wards, and no arrangement is made for the disposition of those school-directors left over where there cannot be such an equal division. Moreover, the number of wards in a borough is by no means fixed. Boroughs are apt to increase in size, and, where they are prosperous, new wards are likely to be created. The effect of adding a new ward to a borough would be to upset the whole system. A more simple and a more feasible plan would be to pass an act providing that each ward in the borough shall have a definite number of school directors. In carrying out the proposed plan, section three provides, "the members of the

school-board, elected according to the provisions of this act, shall proceed by lot to divide the wards of their borough into three classes," and then it directs that the directors in the wards of the first class shall be elected to serve one year, in those of the second class to serve two years, and in those of the third class to serve three years. We have here an attempt at the classification of wards, but there is no designation of the basis of the classification. They might be classified according to locality, to population, or according to number, and in many other ways which may be supposed. Probably it is intended that they should be classified according to number; but, if this be the thought, it is not expressed. It might also be found difficult to divide the wards equally into three classes. In many cases it would happen that they could not be so divided, and the bill provides no means for the adjustment of this difficulty.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 56.

AN ACT

To amend an act, entitled "An act relating to husband and wife who are the parents of minor children, enlarging and extending the power, control and authority of the mother over their minor children, under certain circumstances," approved the twenty-sixth day of June, one thousand eight hundred and ninety-five.

Section 1. Be it enacted, &c., That an act, entitled "An act relating to husband and wife who are the parents of minor children, enlarging and extending the power, control and authority of the mother over their minor children, under certain circumstances," which reads as follows:

"Section 1. That hereafter a married woman, who is the mother of a minor child and who contributes by the fruits of her own labor or otherwise toward the support, maintenance and education of her said minor child, shall have the same and equal power, control and authority over her said child and shall have the same and equal right to its custody and services as is now by law possessed by her husband, who is the father of such minor child: Provided, however, That the mother of such minor child is otherwise qualified as a fit and proper person to have the control and custody of said child.

"Section 2. That in all cases of dispute between the father and mother of such minor child, as to which parent shall be entitled to its custody or services, the judges of the courts shall decide, in their sound discretion, as to which parent, if either, the custody of such minor child shall be committed, and shall remand such child accordingly, regard first being had to the fitness of such parent and the best interest and permanent welfare of said child," be and the same is hereby amended so as to read as follows:

Section 1. A married woman, who is the mother of a minor child, and who shall have obtained a decree of divorce against her husband, the father of such child, or shall have separted from him for causes which would justify a decree in divorce, and who shall be

able properly to maintain and educate her said children, shall, so long as she shall not remarry, have the same and equal right to its custody and services as the father of such minor child: Provided, however, That the mother of such child is a fit and proper person to have the control and custody of said child, and that it is for the best interests and permanent welfare of such minor child that it should be awarded to her.

Section 2. In all cases of dispute between the father and mother of such minor child, as to which parent, if either, shall be entitled to its custody and services, the judges of the courts shall, in the exercise of a sound discretion, regard being first had to the best interests and permanent welfare of said child, decide whether such child should be committed to the custody of either parent, and if so, to which parent, and if to neither parent, to whom such minor child should be committed; and to remand such child accordingly: Provided, however, That if by such order the child shall be committed to the custody of its mother, and she shall thereafter remarry during the minority of such child, then the court may, upon a proper application, reconsider the question of the custody of such child, and make such order as to its custody as may seem to the judges of the courts for its best interests and permanent welfare, notwithstanding any former order or decree in respect thereto.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 41, entitled "An act to amend an act, entitled 'An act relating to husband and wife who are the parents of minor children, enlarging and extending the power, control and authority of the mother over their minor children, under certain circumstances,' approved the twenty-sixth day of June, one thousand eight hundred and ninety-five."

The purpose to be accomplished by the proposed amendment is not set forth in the title, as required by Article III, Section 3, of the Constitution. The omission is the less to be regretted, because of the fact that the existing law is safer than would be the proposed amendment. The statute which it is proposed to amend gives the custody of the minor child to the parent who may be selected by the judges of the courts, in the exercise of their sound discretion. The proposed amendment would give to both parents an "equal right to its custody and services." Under these circumstances the difficulties of division would be very great.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 57.

AN ACT

To exempt cash registers, leased or hired, from levy or sale on execution or distress for rent.

Section 1. Be it enacted, &c., That hereafter all cash registers, leased or hired by any person or persons residing in this Common-

wealth, shall be exempt from levy and sale on execution or distress for rent, due by such person or persons so leasing or hiring any such cash register or cash registers, in addition to any articles or money now exempt by law: Provided, That the owner or owners of any such cash register, or his or their agent, or the person or persons so leasing or hiring the same, shall give notice to the landlord or his agent that the said cash register is leased or hired.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 21, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 384, entitled "An act to exempt cash registers, leased or hired, from levy or sale on execution or distress for rent."

If the time has come, in the development of our law, when the right of the landlord to distrain for rent upon personal property not belonging to the tenant, found upon the premises—a right which has existed since the time of the origin of the common law—is to be abrogated, it ought to be done by a general act, and ought not to be taken up piecemeal. There seems to be no reason why cash registers should be in any relation to the landlord different from that of many other articles of personal property. The exemption referred to in the bill is an exemption from execution allowed to the defendant, and is in no sense an exemption for the benefit of persons whose personal property may be upon the premises, and the two ought not to be confounded.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 58.

AN ACT

To authorize manufacturing corporations to deal in goods, wares and materials manufactured by others.

Section 1. Be it enacted, &c., That any corporation hereafter formed under the laws of this Commonwealth, for the purpose of manufacturing any goods, wares or materials, of any kind, may, in addition to such purpose, be authorized by its charter to deal in goods, wares or other materials of the same kind not manufactured by it.

Section 2. Any corporation already formed under the laws of this Commonwealth, for the purpose of manufacturing any goods, wares or materials, of any kind, may, in addition to such object or purpose, by amendment to its charter in the manner now provided by law, be authorized to deal in goods, wares and materials manufactured by others, of the same kind as that authorized by said charter to be manufactured.

Section 3. All acts or parts of acts general or special inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 239, entitled "An act to authorize manufacturing corporations to deal in goods, wares and materials manufactured by others."

In the construction of the act of April 29, 1874, and its supplements, it has become a well settled principle of the law that charters shall not be granted to corporations for dual purposes. The effect of this bill would be to permit corporations, which are engaged in manufacturing, to carry on likewise the business of merchants, dealing in the goods, wares and materials made by other manufacturers. There appears to be no good reason why this exception to the general law should be made. On the contrary, there are good reasons for maintaining the law in the case of manufacturing corporations. Such corporations are exempted from taxation upon the ground that it is a benefit to the Commonwealth to encourage manufactures. If they were permitted likewise to be merchants, it would always be a matter of difficulty to determine what part of their capital is utilized in manufacturing and what part in merchandising.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 59.

AN ACT

To provide for the punishment of persons responsible for, or contributing to, the delinquency of children.

Section 1. Be it enacted, &c., That in all cases where a child shall be a delinquent child, or a juvenile delinquent person, as provided by the statutes of this State, the parent or parents, or legal guardian, or person having the custody of such child, or any other person responsible for, or by any act encouraging, causing or contributing to, the delinquency of such child shall be guilty of a misdemeanor, and, upon trial and conviction thereof, shall be fined in a sum not to exceed one hundred dollars ($100) or imprisonment in the county jail for a period not to exceed one (1) month, or by both such fine and imprisonment. The court may impose conditions upon any person found guilty under this act, and so long as such person shall comply therewith to the satisfaction of the court the sentence imposed may be suspended.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 392, entitled "An act to provide for the punishment of persons responsible for or contributing to, the delinquency of children."

This bill provides that where a child is delinquent "the parent or parents or legal guardian, or person having the custody of such child, or any other person responsible for, or by any act encouraging, causing or contributing to, the delinquency of such child" shall be guilty of a misdemeanor, punishable by a fine of $100.00, or imprisonment in the county jail for one month, or both. The words "encouraging, causing or contributing to the delinquency" of the child are entirely too general and vague for the description of this newly created crime. It may be that giving a penny to such a child would be both encouraging and contributing to its delinquency.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 60.

AN ACT

To regulate the vaccination of all employes, attendants, patients and inmates of educational, penal, reformatory, charitable, benevolent or eleemosynary institutions, to which the Commonwealth renders aid by making appropriations of money thereto.

Section 1. Be it enacted, &c., That all appropriations of money, hereafter made to educational, penal, reformatory, charitable, benevolent or eleemosynary institutions by the Commonwealth of Pennsylvania, shall be paid on the warrant of the Auditor General, on a statement made by him to the State Treasurer, but no warrant shall be drawn or settlement made until the directors or managers of such institution shall have made to the State Board of Health, under oath, a statement, based upon personal examination, that every employe, attendant, patient and inmate is protected against smallpox by:

(a) A previous attack of the disease.

(b) By one successful vaccination, if such person is under twelve years of age; by two successful vaccinations, each made at a different time, if over that age.

(c) By vaccination on entrance to such institution, or employment by such institution: Provided, That the vaccination of such persons as may be dangerously ill may be postponed until such time as their physical condition shall warrant vaccination. Which said statement shall be made from a register of names, to be kept, together with the date of said vaccination and its result when made by such institutions, and the number and site of vaccination scars of those previously protected; which said register shall be open at all times for the inspection of the State Board of Health.

Section 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 151, entitled "An act to regulate the vaccination of all employes, attendants, patients and in-

mates of educational, penal, reformatory, charitable, benevolent or eleemosynary institution, to which the Commonwealth renders aid by making appropriations of money thereto."

This bill provides that no warrant shall be drawn for any of the appropriations of money made to educational, penal, reformatory, charitable, benevolent, or eleemosynary institutions until the directors shall have made, under oath, a statement, based upon personal examination, that every employe, attendant, patient, and inmate is protected against smallpox, either by a previous attack of the disease or by vaccination. So far as a layman may be able to determine, it would appear that vaccination has resulted in great benefit to the human race by preventing the spread of smallpox, and therefore, any proper method to bring about the general use of vaccination by the people of the Commonwealth might well be made the subject of legislation; but the effort to accomplish such results by the indirect means adopted in this bill is not at all to be commended. The appropriations to the different institutions have no connection whatever with the subject of vaccination. They are intended to accomplish entirely different ends. To require the director of a hospital to make oath that a patient, who has entered the hospital for the purpose of having some operation performed, or of being treated for some disease, has been vaccinated, would be to require the director to swear falsely or to commit a trespass. He has no authority over the patient, and no means of compelling the patient to submit to any such treatment. If the director should endeavor to force a patient to be vaccinated against his will, he would very properly render himself liable to imprisonment for assault and battery. The bill is conceived in an utterly wrong spirit. To endeavor to stop the treatment of the insane and the incarceration of criminals, the education of the blind, the deaf and the dumb, in order that vaccination may be encouraged, is to entirely mistake the importance of vaccination.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 61.

AN ACT

To amend sections ten, twelve, thirteen, fourteen and sixteen of an act, entitled "An act to establish a Medical Council, and three State Boards of Medical Examiners; to define the powers and duties of said Medical Council and said State Boards of Medical examiners; to provide for the examination and licensing of practitioners of medicine and surgery, to further regulate the practice of medicine and surgery, and to make an appropriation for the Medical Council," and changing the methods of examination; providing for a preliminary education; requiring the applicant for license to take a course of four years in a medical college; changing the penalty for violation; increasing the appropriation to the Medical Council, and providing for the revocation of a license upon certain conditions.

Section 1. Be it enacted, &c., That section ten of an act, entitled "An act to establish a Medical Council and three State Boards of Medical Examiners, to define the powers and duties of said Medical Council and said State Board of Medical Examiners, to provide

for the examination and licensing of practitioners of medicine and surgery, to further regulate the practice of medicine and surgery, and to make an appropriation for the Medical Council," passed the eighteenth day of May, eighteen hundred and ninety-three, which reads as follows:

"The several boards of medical examiners shall, not less than one week prior to each examination, submit to the Medical Council of Pennsylvania questions for thorough examinations in anatomy, physiology, hygiene, chemistry, surgery, obstetrics, pathology, diagnosis, therapeutics, practice of medicine and materia medica; from the lists of questions so submitted the council shall select the questions for each examination, and such questions for each examination shall be the same for all candidates, except that in the departments of therapeutics, practice of medicine and materia medica the questions shall be in harmony with the teachings of the school selected by the candidates," be and the same is hereby amended to read as follows:

The several boards of medical examiners shall, not less than one week prior to such examination, submit to the Medical Council of Pennsylvania questions for the thorough examination in anatomy, physiology, hygiene, chemistry, surgery, obstetrics, pathology, diagnosis, therapeutics, practice of medicine, materia medica and toxocology; from the lists of questions, so submitted, the medical members of the Council shall select the questions for each examination, and such questions for each examination shall be the same for all candidates, except that in the departments of therapeutics, practice of medicine and materia medica the questions shall be in harmony with the teachings of the school selected by the candidate. On and after the first day of June, Anno Domini nineteen hundred and five, there shall be admitted to the examination in anatomy, physiology, chemistry, hygiene and materia medica such applicants as shall be certified as having studied medicine, in a regularly incorporated reputable medical school, not less than two full years of at least eight months, in two different calendar years; provided such candidates are of good moral character, have the requisite prelinminary education, as provided in section thirteen, and pay the fee of twenty-five dollars; and there shall be admitted to the final examinations in surgery, obsterics, toxocology, pathology, diagnosis, therapeutics and practice of medicine such applicants as shall be certified as having finished the full period of four years of study, and as having received the degree in medicine. In case of failure in any of the said subjects, the candidates, after the expiration of six months, shall have the privilege of re-examination by the State Board to which application was made, without the payment of an additional fee.

Beginning with May, nineteen hundred and five, the signature of the candidate for examination for license shall be certified to by the Dean of the Medical College from which the candidate's diploma was issued, and at the time of the examination of the candidate for license the respective Boards of Examiners shall require the candidate to write his signature, in the presence of a member of the Board, for comparison with the one certified to by the Dean of the Medical College from which his or her diploma was issued.

Section 2. That section twelve of this act, which reads as follows: "On receiving from any of said Board of Medical Examiners such official report of the examination of an applicant for license, the Medical Council shall issue forthwith to each applicant who shall have been returned as having successfully passed said examination, and who shall have been adjudged by the Medical Council to be duly qualified for the practice of medicine, a license to practice medicine and surgery (and any of their branches) in the State of Pennsylvania. The Medical Council shall require the same standards of qualification from all candidates, except in the departments of therapeutics, practice of medicine and materia medica, in which the standard shall be determined by each of the board respectively. Every license to practice medicine and surgery issued pursuant to this act shall be subscribed by the officers of the Medical Council and by each medical examiner who reported the licentiate as having successfully passed said examinations. It shall also have affixed to it, by the persons authorized to affix the same, the seal of this Commonwealth.

"Before said license shall be issued it shall be recorded in a book to be kept in the office of the Medical Council, and the number of the book and page therein containing said recorded copy shall be noted upon the face of said license. Said record shall be open to public inspection, under proper restrictions as to their safe keeping, and in all legal proceedings shall have the same weight as evidence as is given to the conveyance of land," be and the same is hereby amended to read as follows:

Section 12. On receiving from any of said Boards of Medical Examiners such official report of the examination of any applicant for license, the Medical Council shall issue forthwith to each applicant who shall have been returned as having successfully passed said examination, and who shall have been adjudged by the Medical Council to be duly qualified for the practice of medicine, a license to practice medicine and surgery, or any of their branches, in the State of Pennsylvania. The Medical Council shall require the same standards of qualification from all candidates, except in the departments of therapeutics, practice of medicine and materia medica, in which subjects the standards shall be determined by each of the Boards, respectively. Every license to practice medicine and surgery, or any of their branches, issued pursuant to this act, shall have inscribed upon it the name of the particular Board under which the licentiate was examined, and shall be subscribed by the officers of the Medical Council, and by each medical member who reported the licentiate as having successfully passed said examinations. It shall also have affixed to it, by the person authorized to affix the same, the seal of the Medical Council.

Before said license shall be issued, it shall be recorded in a book to be kept in the office of the Medical Council, and the number of the book and page therein containing said recorded copy shall be noted upon the face of said license.

Said records shall be open to public inspection, under proper restrictions as to their safe-keeping, and in all legal proceedings shall have the same weight as evidence that is given to the conveyance of land.

Section 3. That section thirteen which reads as follows: "From and after the first day of June, Anno Domini one thousand eight hundred and ninety-four, any person not theretofore authorized to practice medicine and surgery in this State, and desiring to enter upon such practice, may deliver to the secretary of the Medical Council, upon the payment of a fee of twenty-five dollars, a written application for license, together with satisfactory proof that the applicant is more than twenty-one years of age, is of good moral character, has obtained a competent common school education, and has received a diploma conferring the decree of medicine from some legally incorporated medical college of the United States, or a diploma or license conferring the full right to practice all the branches of medicine and surgery in some foreign country; applicants who have received the decree of medicine after the first day of July, one thousand eight hundred and ninety-four, must have pursued the study of medicine for at least three years, including three regular courses of lectures, in different years, in some legally incorporated medical college, or colleges, prior to the granting of said diploma or foreign license. Such proof shall be made, if required, upon affidavit. Upon the making of said payment and proof the Medical Council, is satisfied with the same, shall issue to the said applicant an order for examination before such one of the State Boards of Medical Examiners as the applicant for license may select. In case of failure at any such examination the candidate, after the expiration of six months and within two years, shall have the privilege of a second examination by the same board to which application was first made without the payment of an additional fee: And it is further provided, That applicants examined and licensed by State Boards of Medical Examiners or State Boards of Health of other States, on the payment of a fee of fifteen dollars to the Medical Council, and on filing in the office of the Medical Council a copy of said license certified by the affidavit of the president or secretary of such board showing also that the standard of acquirements adopted by said State Board of Medical Examiners or State Board of Health, is substantially the same as is provided by sections eleven, twelve and thirteen of this act, shall without further examination receive a license conferring on the holder thereof all the rights and privileges provided by sections fourteen and fifteen of this act," be and the same is hereby amended to read as follows:

Section 13. From and after the first day of June, Anno Domini one thousand nine hundred and five, any person not theretofore authorized to practice medicine and surgery or any of their branches in this State, and desiring to enter upon such practice, may deliver to the secretary of the Medical Council, upon the payment of a fee of twenty-five dollars, a written application for license, together with satisfactory proof that the applicant is more than twenty-one years of age, is of good moral character, has obtained a preliminary education as hereinafter provided, and has received a diploma conferring the degree in medicine from some legally incorporated reputable medical college of the United States, or a diploma or license conferring the full right to practice all the branches of medicine and surgery in some foreign country. Applicants who receive their degree in medicine after the first day of January, one thousand nine

hundred and six, must have pursued the study of medicine for four years, of at least eight months in each year, in four different calendar years, the work of each year having been successfully passed in some legally incorporated reputable medical college or colleges, prior to the granting of said diploma or foreign license: Provided, That upon the completion of the regular four years' course, and graduation from a reputable literary college, in which four years' course two years were devoted to scientific and biologic work in the college, shall be accepted by the Medical Council of the State of Pennsylvania as an equivalent for the first year in a recognized reputable medical college: Provided, That the examinations of the first year of the said medical college have been successfully passed, and accepted by the medical college as dealing adequately with chemistry, materia medica, toxocology, physics, physiology, anatomy and the biologic sciences. Such proof shall be made, if required, on affidavit. Upon the making of said payment and proof the Medical Council, if satisfied with the same, shall issue to said applicant an order for examination before such one of the State Boards of Medical Examiners as the applicant for license may select. In case of failure at any such examination, the candidate, after the expiration of six months, and within two years, shall have the privilege of a second examination by the same Board to which application was first made, without the payment of an additional fee.

Having failed upon a second examination, as herein provided, application de novo may be made, upon conforming with the standard of qualification, both as to character, preliminary and medical education, in force at the time of said application, and upon the payment of a fee of twenty-five dollars: And it is further provided, That applicants examined and licensed by State Boards of Medical Examiners for State Boards of Health of other States, on the payment of a fee of twenty-five dollars to the Medical Council, and filing in the office of the Medical Council a copy of said license, certified by the affidavit of the president or secretary of such board, showing also that the standard of acquirements adopted by said Board of Examiners or State Board of Health is substantially the same as is provided by section ten, eleven, twelve and thirteen of this act, shall, without further examination, receive a license conferring on the holder thereof all the rights and privileges provided by sections fourteen and fifteen of this act.

Candidates for license to practice medicine and surgery, or any of their branches, in this State, who present their applications and undergo examination after the first day of January, Anno Domini one thousand nine hundred and ten, shall be obliged to present to the Medical Council one of the following credentials, satisfactory to the Council, covering their preliminary education prior to their beginning the study of medicine in some legally incorporated reputable medical school, to wit: A diploma of graduation from a reputable college or university, granting the degree of Bachelor of Arts or Science, or equivalent degree; or a diploma of graduation from an educational institution maintaining a four years' course of study, that is, a State Normal school, or a high school, a seminary, an academy, or a college preparatory school; or a certificate of having passed examinations for admission to the freshman class of a repu-

table literary or scientific college or university; or a certificate of having passed an equivalent examination, conducted by a certified examiner for the State of Pennsylvania, to be appointed by the State Superintendent of Public Instruction, and for other states; to be approved by the State Superintendent of Public Instruction of Pennsylvania; said certified examiner being privileged to accept credential from reputable and recognized preliminary schools, for any subjects included in the preliminary examination.

Section 14. That section fourteen of said act, which reads as follows:

"Section 14. From and after the first day of July, Anno Domini one thousand nine hundred and four, no person shall enter upon the practice of medicine or surgery in the State of Pennsylvania, unless he or she has complied with the provisions of this act, and shall have exhibited to the prothonotary of the court of common pleas of the county in which he or she desires to practice medicine or surgery, a license duly granted to him or her as hereinbefore provided, whereupon he or she shall be entitled upon the payment of one dollar to be duly registered in the office of the prothonotary of the court of common pleas of said county, and any person violating any of provisions of this act shall be guilty of misdemeanor, and on conviction thereof in the court of quarter sessions of the county wherein the offense shall have been committed, shall pay a fine of not more than five hundred dollars for each offense," be and the same is hereby amended to read as follows:

Section 14. From and after the first day of March, Anno Domini one thousand nine hundred and five, no person shall enter upon the practice of medicine, surgery, or any of their branches, in the State of Pennsylvania, unless he or she has complied with the provisions of this act, and shall have exhibited to the prothonotary of the court of common pleas of the county in which he or she desires to practice medicine, surgery, or any of their branches, a license duly granted to him or her, as hereinbefore provided; whereupon he or she shall be entitled, upon the payment of one dollar, to be duly registered in the office of the prothonotary of the court of common pleas in the said county; and any person violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof in the court of quarter sessions of the county wherein the offense shall have been committed, shall pay a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail for not less than thirty days nor more than ninety days, for each offense, either or both, at the discretion of the court.

Section 4. That section sixteen of said act, which reads as follows:

"Section 16. The sum of two thousand dollars is hereby appropriated, out of any moneys in the State Treasury not otherwise appropriated, for the salary of the secretary and treasurer of said medical council and the necessary expenses of said council; one thousand dollars thereof for the year beginning January one, one thousand eight hundred and ninety-four, and one thousand dollars thereof for the year beginning January one, one thousand eight

hundred and ninety-five," be and the same is hereby amended to read as follows:

Section 16. The sum of three thousand five hundred dollars is hereby annually appropriated, out of any moneys in the State Treasury not otherwise appropriated, for the salary of the secretary and treasurer of said medical council, and the necessary expenses of said council; and any balance remaining at the end of each year, from the appropriation, after the disbursements herein specified, shall be paid into the Treasury of the Commonwealth.

Section 6. On and after January first, Anno Domini one thousand nine hundred and five, the Medical Council, upon satisfactory evidence and proof of any immoral, dishonest or criminal practice on the part of a licentiate under this act, be empowered to revoke the license of said licentiate.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 305, entitled "An act to amend sections ten, twelve, thirteen, fourteen and sixteen of an act, entitled 'An act to establish a Medical Council, and three State Boards of Medical Examiners, to define the powers and duties of said Medical Council and said State Boards of Medical Examiners, to provide for the examination and licensing of practitioners of medicine and surgery, to further regulate the practice of medicine and surgery, and to make an appropriation for the Medical Council,' and changing the methods of examination; providing for a preliminary education; requiring the applicant for license to take a course of four years in a medical college; changing the penalty for violation; increasing the appropriation to the Medical Council, and providing for the revocation of a license upon certain conditions."

This bill has been drawn with great want of care. Upon page six in reciting section thirteen of the act of May 18, 1893, the word "June" has been substituted for the word "July." On page seven, line twenty-two, in reciting the same section of the same act, seven lines have been omitted. Upon line twenty-four on the same page the word "is" is substituted for "if." Upon page eleven, in reciting section fourteen of the prior act, the words "July, Anno Domini one thousand nine hundred and four," have been substituted for the words "March, Anno Domini one thousand eight hundred and ninety-four." The bill is also objectionable for the reason that it creates another class of crimes. It well illustrates a dangerous habit of legislation which appears to be upon the increase. It will be simply impossible for the Commonwealth to erect jails of sufficient capacity to retain all of the persons who are being made criminals by legislation. The act of May 18, 1893, which this bill proposes to amend, is a long one and contains a great many directions. The bill has a general clause, which provides that "any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof in the court of quarter sessions, in the county wherein the offense shall have been committed, shall pay a fine of not less than one hundred dollars nor more than five hun-

dred dollars, and by imprisonment in the county jail for not less than thirty days nor more than ninety days, for each offense." Among the numerous directions of the bill are some which impose duties upon the Governor. For the failure or neglect to perform any of them he might, therefore, be liable to be imprisoned in the county jail for ninety days, to the great disadvantage of the Commonwealth.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 62.

AN ACT

Regulating proceedings to widen, straighten, alter, or change, and vacate public roads or parts thereof in townships of this Commonwealth; the number of viewers, their duties, how paid and by whom; the assessment of damages, and their payment to persons injured; providing for reviews, and appeal to the court of common pleas, to those aggrieved in the assessment of damages, and repealing all acts or parts of acts, whether private, special, local or general, inconsistent herewith.

Section 1. Be it enacted, &c., That in all cases where public roads, whether laid out according to law or in any other way became a public road, or parts thereof, in townships of this Commonwealth, shall have become inconvenient, insufficient, burdensome or useless, and shall require widening, straightening, altering, or changing, and vacating, or either widening, straightening, altering, or changing, or vacating, in order to meet the requirements of public travel, the court of quarter sessions of every county of the Commonwealth, on being petitioned to grant a view to widen, straighten, alter, or change, and vacate the whole, or such part or parts as may be rendered or considered useless, or either widen, straighten, alter, or change, or vacate the whole or any part of any road within the respective county, shall have power, and are hereby required, in open court, to appoint, as often as may be needful, three persons, one of whom shall be a surveyor, to view the said road or parts of road. And the whole number of persons, so appointed, shall view said road, and make report, in which a majority concur, of their proceedings to the respective court at the next term thereof.

Section 2. That all viewers or reviewers appointed as aforesaid shall, before they proceed to view, respectively make oath or affirmation to perform the duties of their appointment impartially and according to the best of their judgment, which oath may be administered to them by any magistrate of the respective county, or by one of their number; nor shall they proceed to view until after notice shall have been given to the county commissioners of the respective county, and to the township supervisors of the township or townships through which said road passes, and shall have given public notice by at least five advertisements, posted up in conspicu-

ous places along said road, of the time and place of meeting for the purposes of their appointment, at least ten days before such meeting.

Section 3. The persons appointed viewers or reviewers, as provided in this act, shall view the road, and if they agree that said road, or any part or parts thereof, has become inconvenient, insufficient, burdensome or useless, and therefore requires widening, straightening, altering or changing and vacating the same, or such part or parts as may be rendered or considered useless, shall proceed to lay out such widened, straightened, altered, or changed road, and to vacate so much thereof as may be rendered or considered useless. It shall also be the duty of the aforesaid viewers to endeavor to procure, from the persons through whose lands such road passes, releases for all claims of damages that might arise from such widening, straightening, altering, or changing of said road, or parts thereof. And in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages, taking into consideration the benefits arising therefrom: Provided, In case such widening or altering, or either, is made necessary in part by the use of such road by a corporation or corporations, then the viewers shall have further power to assess such corporation or corporations such part of the cost of widening and altering, or either, as the viewers may agree that is just and reasonable.

Section 4. The viewers or reviewers, as aforesaid, shall make report, at the next term of the said court, in which a majority of them concur; and in said report shall state particularly: first, who of them were present at the view; second, whether they were severally sworn or affirmed; third, whether said road, or any part or parts thereof, should be widened, straightened, altered, or changed, or vacated in order to accommodate public travel thereon. Said report, if favorable to the petitioners, shall contain a recommendation as to the width of said road; and also their assessment of the damages sustained, as provided in section three of this act, together with all releases obtained. Said report shall also have annexed thereto, and become a part thereof, a plot or draft thereof, stating the courses and distance, and noting the location of communicating roads, bridges, and the improvements within fifty feet of said road. And, whenever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees.

Section 5. If the court shall approve of the report of the viewers, they shall direct of what width the road so approved shall be made; but the width so fixed shall not exceed sixty feet; and at the next court thereafter, the whole proceedings shall be entered on record; and thenceforth such road shall be taken, deemed and allowed to be a lawful public road or highway, and shall, as soon as practicable, be effectually opened.

Section 6. If the report of the viewers, appointed as provided in this act, be approved by the court, the amount of damages awarded, together with the court and record costs arising out of the proceedings, shall be paid by the county treasurer, out of the county moneys, to the parties entitled thereto: Provided, however, That the bill of the viewers for their services as viewers shall be paid by the

petitioners. Two of said viewers to receive two dollars per day, and the surveyor four dollars per day, for their services.

Section 7. Public roads, upon and along a line which divides two adjoining counties, may be widened, straightened, altered, or changed, and vacated in the manner provided in this act in the case of other roads, except that the court of quarter sessions of each of the said counties shall appoint three viewers, and that a report as aforesaid shall be made to the said courts, respectively, and that the said courts shall otherwise have and exercise concurrent jurisdiction therein. And the damages arising therefrom shall be paid by the counties jointly, in equal amounts.

Section 8. In all cases of views for the purposes mentioned in this act, the respective court shall, on petition of any person interested, direct a second view, or review, for the same purpose: Provided, That application therefor be made at or before the next term of the said court after the report upon the first view.

Section 9. Any person aggrieved by the report of the viewers in the assessment of damages, as provided in this act, may appeal therefrom to the court of common pleas, and have a trial by jury on the question of damages; but such appeal must be taken within thirty days from the date when the said report is confirmed absolutely by the court.

Section 10. All acts or parts of acts, whether private, special, local or general, inconsistent with this act, be and the same are hereby repealed: Provided, That the provisions of this act shall not be construed to repeal any of the provisions of an act approved June seventh, one thousand nine hundred and one, and entitled "An act relating to railroad crossings of highways, and for the regulation, alteration and abolition of grade crossings, except in cities of the first and second class."

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 647, entitled "An act regulating proceedings to widen, straighten, alter, or change, and vacate public roads or parts thereof in townships of this Commonwealth; the number of viewers, their duties, how paid and by whom; the assessment of damages, and their payment to persons injured; providing for reviews, and appeal to the court of common pleas, to those aggrieved in the assessment of damages, and repealing all acts or parts of acts, whether private, special, local or general, inconsistent herewith."

An act which proposes to pass upon a subject so important to the citizens of the Commonwealth as that of the public roads ought to be drawn with very great care. The present bill is crudely devised, and is replete with inconsistencies and obscurities which would, in all probability, lead to serious trouble. Section one provides: "That in all cases where public roads, whether laid out according to law, or in any other way became a public road, or parts thereof, in townships of this Commonwealth, shall have become inconvenient, insufficient, burdensome or useless, and shall require

widening, straightening, altering or changing, and vacating, or either widening, straightening, altering or changing, or vacating, in order to meet the requirements of public travel, the court of quarter sessions of every county of the Commonwealth, on being petitioned to grant a view to widen, straighten, alter or change, and vacate the whole, or such part or parts as may be rendered or considered useless, or either widen, straighten, alter, or change, or vacate the whole or any part of any road within the respective county, shall have power, and are hereby required, in open court, to appoint, as often as may be needful, three persons, one of whom shall be a surveyor, to view the said road or parts of road."

If the words "public roads" are to be regarded as the subject of the verb "became," it is difficult to understand how they could become "parts thereof." If, on the other hand, we interpolate a subject for the word "became," and the words "public roads" are the subject of the verb "shall have become," it is then difficult to understand how roads which have become burdensome or useless should require widening or straightening. There is no direction as to who shall have the right to petition, nor how many petitioners there shall be. The court, however, is directed to grant a view to widen, straighten, alter or change, as well as vacate "the whole or such part or parts as may be rendered or considered useless." In section three, the viewers are directed that, if they agree that the road "has become inconvenient, insufficient, burdensome or useless, and therefore requires widening, straightening, altering or changing and vacating," they shall proceed to lay out such road. In section four, it is directed that the report of the viewers, "if favorable to the petitioners, shall contain a recommendation as to the width of said road." It has here been forgotten that the petition might have been in favor of vacating the road, and not in favor of laying it out or widening it. Section eight provides that "the respective court," whatever this may be, "shall, on petition of any person interested, direct a second view, or review, for the same purpose." This appears to be inconsistent with section one, which directs that the court be required to appoint "as often as may be needful" a jury of view. These are illustrations of numerous difficulties with the bill, which make it improper that it should become a law.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 63.

AN ACT

To amend the nineteenth section of an act, entitled "An act to regulate the publication, binding and distribution of the public documents of this Commonwealth," approved the second day of May, one thousand eight hundred and ninety-nine.

Section 1. Be it enacted, &c., That section nineteen of an act, entitled "An act to regulate the publication, binding and distribution of the public documents of this Commonwealth," approved the second day of May, one thousand eight hundred and ninety-nine, which reads as follows:

"XIX. Three thousand six hundred copies of the annual report of the State Board of Health and Vital Statistics: five hundred for the Senate, one thousand for the House, one thousand five hundred for the State Board of Health and Vital Statistics, fifty for the Governor, fifty for the Secretary of the Commonwealth, one hundred for the State Librarian, and four hundred to be reserved for the official documents," be amended so that the same shall read as follows:

XIX. Four thousand seven hundred copies of the annual report of the State Board of Health and Vital Statistics: five hundred for the Senate, one thousand for the House, two thousand six hundred for the State Board of Health and Vital Statistics, fifty for the Governor, fifty for the Secretary of the Commonwealth, one hundred for the State Librarian, and four hundred to be reserved for the official documents.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 700, entitled "An act to amend the nineteenth section of an act, entitled 'An act to regulate the publication, binding and distribution of the public documents of this Commonwealth,' approved the second day of May, one thousand eight hundred and ninety-nine."

This bill is inconsistent with the act to regulate the publication, binding and distribution of the public documents of this Commonwealth, passed at the present session of the Legislature, and approved April 17, 1905. That part of the bill which provides that four hundred copies of the annual report of the State Board of Health are to be reserved for the official documents, is inconsistent with the act to create the Department of Public Printing, etc., also passed at the present session of the Legislature, and approved February 7th, 1905. Section thirty-five of the last mentioned act limits the copies of the official documents to ten.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 64.

AN ACT

To provide for the adoption and registration of labels, symbols, trade-marks, or private stamps by any association or union of workingmen; regulating the use of such labels, symbols, trade-marks, or private stamps, providing penalties for the unlawful use thereof, and for counterfeiting or imitating the same; and prohibiting the sale, use, or display of such counterfeit labels, and the sale, use, or display of goods, wares, and merchandise to which such counterfeit labels may be affixed.

Section 1. Be it enacted, &c., That it shall be lawful for associations and unions of workingmen, incorporated or unincorporated, to adopt a label, symbol, trade-mark, or private stamp for their protection, and for the purpose of designating the product of their parti-

cular labor or workmanship, and to register the same in the manner hereinafter provided. Every such association or union of workingmen that has heretofore adopted and registered, under any prior act of Assembly, or shall hereafter adopt and register under the provisions of this act, any label, symbol, trade-mark, or private stamp, shall have, possess and enjoy full, complete and unquestioned power and authority to name, make, dictate, and specify the conditions and limitations under which the same may be used by any person or persons employing the member or members of said associations or unions, or manufacturing any article or articles upon which such trade-mark, label, symbol, or private stamp may be placed, or using in any manner in his, her or their business the labor symbolized by any such label, symbol, trade-mark, or private stamp so registered: And provided, That where two or more organizations, associations, or unions have adopted an allied crafts' trade-mark, label, symbol, or private stamp, and granted the use of it to any person or persons, and conflict has arisen between such grantee and any one or more of the organizations having an interest in said allied crafts' label, symbol, trade-mark, or private stamp, any one or more of said organizations, associations, or unions may rescind the grantee's right to use said joint label, symbol, trade-mark, or private stamp; and the continued use of it, after notice in writing that the right thereto has been rescinded by any of the organizations, associations, or unions interested therein, shall render such grantee liable to the penalties of this act.

Section 2. Any such association or union, having adopted any such label, symbol, trade-mark, or private stamp may register the same in the office of the Secretary of the Commonwealth, by filing therein a description or fac similie of the label, symbol, trade-mark, or private stamp, and the name of the association or union adopting the same: Provided, That notice of the intention to register such label, symbol, trade-mark, or private stamp shall be published, once a week for three successive weeks, prior to such registry, in two newspapers of general circulation, published in this Commonwealth. The Secretary of the Commonwealth shall issue as many certificates of such registration as the party filing the same may require, and shall be entitled to a fee of one dollar for each certificate thus issued. In all prosecutions or proceedings under this act, and in all proceedings at law or in equity, any such certificate shall be prima facie evidence that all the requirements of law, entitling such label, symbol, trade-mark, or private stamp to registration, have been complied with, and that such label, symbol, trade-mark, or private stamp had theretofore been duly adopted by the association or union in whose behalf the same was filed. No label, symbol, trade-mark, or private stamp shall be admitted to registration which may be readily mistaken for one already registered.

Section 3. Any person who shall use a genuine or bona fide label, symbol- trade-mark, or private stamp without the authority or permission of the association or union adopting and registering the same, and owning, controlling and having jurisdiction over the same by virtue of the provisions of this or any prior act; or who shall use such genuine or bona fide label, symbol, trade-mark, or private stamp after the license or authority to use the same shall have been re-

scinded or revoked by the association or union owning, controlling or having jurisdiction over the same; and any person or persons who shall wrongfully use any such genuine or bona fide label, smybol, trade-mark, or private stamp by placing the same on goods, wares, or merchandise which are not the product of members of the association or union adopting and registering such label, symbol, trade-mark, or private stamp; and any person or persons who shall knowingly sell, or offer for sale, or display for the purpose of sale, any goods, wares, or merchandise on which such genuine or bona fide label, symbol, trade-mark, or private stamp shall be so wrongfully placed, shall be guilty of a misdemeanor, and, on conviction, shall be punished as hereinafter provided.

Section 4. Any person or persons who shall counterfeit or imitate, or who shall use or display for the purpose of gain, or who shall sell, or offer for sale, a counterfeit or imitation of the label, symbol, trade-mark, or private stamp of any association or union of workingmen, adopted and registered according to the provisions of this or any prior act; and any person or persons who shall sell, or offer for sale, or use, display, or have in his, her or their possession for the purpose of sale, any goods, wares, or merchandise on which such counterfeit or imitation of the label, symbol, trade-mark, or private stamp adopted by any association or union of workingmen, and registered under the provisions of this or any prior act, shall have been placed, shall be guilty of a misdemeanor, and upon conviction, shall be punished as hereinafter provided.

Section 5. In addition to the remedies provided by this act, any association or union, having registered its label, symbol, trade-mark, or private stamp as provided by this or any prior act, may proceed before any court having competent jurisdiction, to restrain and enjoin the use, manufacture, display, or sale of any counterfeit or imitation label, symbol, trade-mark, or private stamp, as aforesaid; or the continued or longer use of any genuine or bona fide label, symbol, trade-mark, or private stamp by any person or persons who may have secured such genuine label, symbol, trade-mark, or private stamp without the consent or authority of the organization, association, or union which may have adopted and registered the same; or whose right, license, or authority to use the same has been rescinded or revoked by the organization, association, or union owning, controlling, adopting, and registering the same, in whole or in part, as hereinbefore provided; and the surrender of possession, and delivery to the proper owner thereof, of any such label, symbol, trade-mark, or private stamp may be decreed in equity, and be enforced as like decrees are now enforced.

Section 6. Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five hundred ($500) dollars and not more than one thousand ($1,000) dollars, or by imprisonment for a period of not less than one year and not more than five years, or either, or both, at the discretion of the court.

Section 7. Be it further enacted, That all of the provisions and regulations provided by this act shall apply to any trade-mark, label, symbol, or private stamp of any association or union of working-

men, duly registered in the office of the Secretary of the Commonwealth under any prior act of Assembly: And further provided, That as to any offense committed or act done, or any penalty, forfeiture or punishment incurred, under any of the following acts, to wit:

"An act to provide for the adoption of trade-marks, labels, symbols, or private stamps by any incorporated or unincorporated association or union of workingmen, and to regulate the same," approved the twenty-first day of May, Anno Domini one thousand eight hundred and ninety-five;

"An act to amend an act, entitled 'An act to provide for the adoption of trade-marks, labels, symbols, or private stamps by any incorporated or unincorporated association or union of workingmen, and to regulate the same, approved May twenty-one, Anno Domini one thousand eight hundred and ninety-five,'" approved second day of May, one thousand nine hundred and one;

"An act to amend sections two and three of an act, entitled 'An act to provide for the adoption of trade-marks, labels, symbols, or private stamps by any incorporated or unincorporated association or union of workingmen, and to regulate the same,' approved March twenty-one, one thousand eight hundred and ninety-five, amended by an act approved May second, Anno Domini one thousand nine hundred and one," approved the third day of April, one thousand nine hundred and three,—

Said acts shall not be construed to be repealed; but in each and every other respect said acts, and all others inconsistent herewith, are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 24, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 170, entitled "An act to provide for the adoption and registration of labels, symbols, trade-marks, or private stamps by any association or union of workingmen; regulating the use of such labels, symbols, trade-marks, or private stamps; providing penalties for the unlawful use thereof, and for counterfeiting or imitating the same; and prohibiting the sale, use or display of such counterfeit labels, and the sale, use or display of goods, wares and merchandise to which such counterfeit labels may be affixed."

This bill provides for legislation which might well be enacted; but unfortunately, after citing three preceding acts of Assembly, it directs that "said acts shall not be construed to be repealed; but in each and every other respect said acts, and all others inconsistent herewith, are hereby repealed." This language is utterly incomprehensible, and since it is intended to affect, in some unknown way, three different pieces of legislation there would be danger in permitting the bill to become a law. Section six provides, "Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars ($500) and not more than one thousand ($1,000) dollars, or by

imprisonment for a period of not less than one year and not more than five years, or either, or both, at the discretion of the court." A fine of one thousand dollars and imprisonment for five years constitute severe punishment for the misuse of a trade-label. The experience of the world shows that violent legislation cannot be enforced.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 65.

AN ACT

Authorizing boroughs to manufacture gas, for the purpose of supplying themselves and their inhabitants with light, heat and fuel; and for such purpose conferring the right of eminent domain, except in certain cases.

Section 1. Be it enacted, &c., That for the purpose of supplying themselves and their inhabitants with light, heat and fuel, on such reasonable terms as the local authorities may determine, all boroughs shall have the right to erect, maintain and operate, within or without their respective limits, works for the manufacture of gas: Provided, however, That this act shall not apply to any borough where any gas company, duly incorporated under the laws of the State, has now the right and authority to manufacture or supply gas.

Section 2. The right is hereby given to take and to occupy such real estate as may be resolved to be necessary for the purpose aforesaid, including the laying of all pipes and mains, to be placed whenever practicable on the public streets and alleys; but before the right may be exercised, the borough shall attempt to agree with the owner upon compensation for all resulting injury; and, on failure to agree, shall, after five days notice to all persons interested, present to the court of common pleas of the judicial district in which the borough is situated a petition, praying for the appointment of three disinterested persons as viewers, to ascertain the injury and determine proper compensation therefor; and at the same time, shall present to the court the bond of the borough, conditioned for the payment of such compensation; if the court approve the bond (without surety, however), it shall appoint the viewers,—and the borough shall then have the right to take and occupy said real estate, and to proceed to construct and operate the works.

Section 3. The viewers shall fix the time and place of their meeting, of which all persons interested shall have ten days' notice, and after being duly sworn or affirmed to perform the duties of their appointment with fidelity, shall view the premises, and hear such relevant testimony as may be offered by the parties; and, having considered all benefit that may accrue, shall determine what amount of damage will be done by the taking and occupying, as aforesaid, and to whom payable, and make report to the next term of court.

To the report exceptions may be filed, within ten days after it is presented. If exceptions are filed, a new view shall be ordered if deemed by the court necessary, or the report may be modified and

confirmed. If execeptions are not filed, or are filed and dismissed, the report shall be confirmed.

Within ten days after the confirmation of the report either party may appeal for a trial by jury; and the case shall then proceed as if an action of trespass, with the right of appeal of either party; otherwise, judgment for the amount of damage assessed shall be entered against the borough, and execution may issue thereon.

Section 4. Each viewer shall be paid by the borough a sum not exceeding five dollars a day, for each day necessarily employed in the performance of duties prescribed by this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 24, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 21, entitled "An act authorizing boroughs to manufacture gas, for the purpose of supplying themselves and their inhabitants with light, heat and fuel; and for such purpose conferring the right of eminent domain, except in certain cases."

The purpose of this bill is to enable people of boroughs to supply themselves with light, heat and fuel, and to provide a method by which they may be enabled to occupy such real estate as is necessary. Unfortunately, in the course of the passage of this bill through the Legislature, an amendment was introduced, which, under the guise of giving to boroughs a right, takes away from them that which they already possessed. A proviso was added which says, "Provided, however, That this act shall not apply to any borough where any gas company, duly incorporated under the laws of this State, has now the right and authority to manufacture or supply gas." This is an instance of improvident and improper legislation. The corporation is entitled to stand upon the powers which have been granted to it in its charter, and no tender consideration for its interests ought to deprive the people of the right to supply themselves with light, if they wish to exercise such right.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 66.

AN ACT

Entitled an act authorizing the merger and consolidation of street railway companies, electric light and power companies, hotel companies, park companies, and bridge companies, now or hereafter chartered by this Commonwealth.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be lawful, subject to the provisions hereof, for street railway companies, electric light and power companies, hotel companies, park companies, and bridge companies, or some or all of said corporations, now or hereafter incorporated under the laws of this Commonwealth, to become merged and consolidated into a new or consolidated company, under the name adopted in and by the

consolidation agreement hereinafter mentioned, possessing all the rights, privileges and franchises theretofore owned by and vested in each of them; and all the estate and property, real and personal, and rights of action of each of said corporations shall be deemed and taken to be transferred to and vested in the consolidated company, without any further act or deed, where, in the judgment of the stockholders of the respective constituent corporations, such consolidation is intended to be created and operated under a general plan and one system for the accommodation of the public: Provided, That by virtue of such consolidation the new or consolidated company shall not become vested with or possessed of the power of eminent domain, except to the extent and for the purposes to or for which said power is vested in any of the constituent companies: And provided further, That all the rights of creditors, and all liens upon the franchises and property of each of the said merged corporations, shall continue unimpaired, and the respective constituent corporations may be deemed to be in existence to preserve the same; and all debts, duties and liabilities of each of the said constituent corporations shall attach to the said consolidated company, and may be enforced against it to the same extent as if said debts, duties and liabilities had been contracted by it: And provided further, That such merger and consolidation shall not be complete, and no such consolidated corporation shall do any business of any kind, until it shall have first obtained from the Governor of this Commonwealth new letters patent, and shall have paid to the State Treasurer a bonus of one-third of one per centum upon all the capital stock in excess of the amount of the capital stock of the several corporations so consolidated, upon which the bonus required by law had been theretofore paid.

Section 2. A certified copy of said certificates and consolidated agreement, hereinafter mentioned, or copy of such agreement, to be filed in the Office of the Secretary of the Commonwealth, shall be evidence of the lawful holding of the necessary corporate meetings, and of the merger and consolidation of such companies.

Section 3. The said merger or consolidation shall be made under the conditions, provisions and restrictions, and with the powers, herein set forth, to wit:

A. The directors of each corporation to be merged, as aforesaid, may enter into a joint agreement, under the corporate seal of each corporation, for the merger and consolidation of said corporations, prescribing: the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence; the number of shares of the capital stock, the par value of each share, and the manner of converting the capital stock of each of the said corporations into the stock of the new corporation; and how and when directors and officers shall be chosen; with such other details and provisions as they shall deem necessary to perfect the said consoldation and merger; but said agreement of consolidation shall not be effective unless the same shall be approved by the stockholders of the said corporations in the manner provided by this act.

B. The said agreement shall be submitted to the stockholders of

each of said corporations, at separate special meetings, of the time, place and object of which respective meetings due notice shall be given by publication, once a week for two successive weeks, before said respective meetings, in at least one newspaper in the county or each of the counties in which the principal office of said respective corporations shall be situate; and at said meetings the said agreement of the directors shall be considered, and a vote of the stockholders in person or by proxy shall be taken, by ballot, for the adoption or rejection of the same, each share of stock entitling the holder thereof to one vote; and if a majority in amount of the entire capital stock of each of said corporations shall vote in favor of said agreement, merger and consolidation, then that fact shall be certified by the secretary of each corporation, under the seal thereof, and said certificates, together with the said agreement or a copy thereof, shall be filed in the office of the Secretary of the Commonwealth; whereupon the said agreement shall be deemed and taken to be the act of consolidation of said corporations.

Section 4. If any stockholder or stockholders of any corporation which shall become a party to an agreement of merger and consolidation hereunder, shall be dissatisfied with, or object to, such consolidation, and shall have voted against the same at the stockholders' meeting, it shall and may be lawful for any such stockholder or stockholders, within thirty days after the adoption of said agreement of merger and consolidation by the stockholders, as herein provided, and upon reasonable notice to said corporation, to apply by petition to any court of common pleas of the county in which the chief office of such corporation may be situate, or to a judge of said court in vacation if no such court sits during said period, to appoint three disinterested persons to estimate and appraise the damages, if any, done to such stockholder or stockholders by said consolidation. Upon such petition, it shall be the duty of said court or judge to make such appointment; and the award of the persons so appointed, or of a majority of the same, when confirmed by the said court, shall be final and conclusive; and the persons so appointed shall appraise the share or shares of said stockholders in the said corporation at the full market value thereof, without regard to any appreciation or depreciation in consequence of the said consolidation; which appraisement, when confirmed by the said court, shall be final and conclusive; and the said corporation shall, at the election of said stockholder or stockholders, pay to the said stockholder or stockholders the amount of damages so found and awarded, if any, or the value of the stock so ascertained; and upon the payment of the value of the stock, as aforesaid, the stockholder or stockholders shall transfer the stock so held by them to the said corporation, to be disposed of by the directors thereof or to be retained for the benefit of the other stockholders; and in case the value of said stock, as aforesaid, shall not be so paid within thirty days after the said award shall have been confirmed by the said court, the damages so found and confirmed shall be a judgment against said corporation, and may be collected as other judgments in said court are by law recoverable.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 24, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 287, entitled "An act, entitled an act authorizing the merger and consolidation of street railway companies, electric light and power companies, hotel companies, park companies, and bridge companies, now or hereafter chartered by this Commonwealth."

This bill provides that "it shall be lawful, subject to the provisions hereof, for street railway companies, electric light and power companies, hotel companies, park companies, and bridge companies, * * * to become merged and consolidated into a new or consolidated company." The law has become well settled that, under the act of April 29, 1874, and its supplements, the rights granted to a corporation by its charter shall be confined to one purpose. The courts have invariably held that where there was a dual purpose the charter was invalid. The effect of this bill would be, as to the companies named in it, to accomplish by indirection what would be contrary to the law, as it has been settled, if done directly. If this merger were permitted, it is difficult to understand what would be the character of the corporation so created. For example, would the mass of legislation and decision relating to street railway companies apply to it or not? How would that law be applicable to a corporation which has, in great part, been chartered as a hotel company or a bridge company? Electric light and power companies and bridge companies have the right of eminent domain, but this does not exist in the case of street railway companies and hotel companies. Would the new corporation have the right of eminent domain because it includes the charter privileges of an electric light and power company, or would it lose the right because subject to the limitations of hotel companies and street railway companies? The bill looks to the creation of a legal monstrosity.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 67.

AN ACT

To protect the fish, and to regulate the fishing, in rivers forming a boundary line between this and another State; to declare the devices which may and which may not be used for catching fish from said waters, and to provide punishments for violating the provisions of this act.

Section 1. Be it enacted, &c., That hereafter, in rivers forming a boundary line between this and another state, for the purposes of this act, the following shall be declared game fish: Large and small-mouth black bass, crappie, strawberry or calico bass, wall-eyed pike, commonly called pike-perch, Atlantic salmon, white and yellow perch, and all species of fish belonging to the pike or pickerel family, excepting the gar pike. All other fish in the waters described shall be termed food fish, excepting minnows, killifishes and stone catfishes, which shall be termed minnows or bait fish.

Section 2. That hereafter it shall be unlawful for any person to fish for and kill any game fish in any river described in the first section of this act in any manner or with any appliance whatsoever, exceepting with a rod and line, or with hand line, each having not more than three hooks attached, or with a single trolling line with spoon, with burr hook, artificial or live or dead bait, attached. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of twenty-five dollars.

Section 3. That hereafter it shall be unlawful to fish for or catch and kill any food fish in any river described in the first section of this act, with any device or appliance whatsoever not specifically permitted in this act. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of twenty-five dollars, excepting where otherwise provided.

Section 4. That hereafter it shall be unlawful to kill or have in possession, the same having been caught in any river described in the first section of this act, any calico or strawberry bass, crappie or rock bass, sometimes called goggle-eye, less than six inches in length, any large or small mouth bass less than nine inches in length, any wall-eyed pike, otherwise called pike-perch, or any member of the pike or pickerel family, excepting gar pike, less than twelve inches in length, or any striped bass commonly, called rock fish, less than ten inches in length. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of ten dollars for each fish so caught, killed or had in possession.

Section 5. That it shall be lawful to use a bob for the capture of eels and catfish.

Section 6. That hereafter it shall be lawful to use eel-pots made of twine, wicker or wire netting, fyke or set nets, and dip nets, at any time of the year in any river described in the first section of this act for the capture of carp, catfish, suckers, mullets and eels; provided, that the eel-pots have an entrance of not more than two and one-half inches; and provided, that the dip nets be not more than six feet square, or with meshes less than two and one-half inches; provided, that each fyke or set net shall have an opening to the first funnel of not more than six inches, and that the outside diameter shall be not more than fifteen inches. And provided further, That each eel-pot and fyke net have a metallic tag bearing the name and address of the owner; and provided, that no eel-pot or fyke net or set net shall be set or fastened to any wingwall or opening in a dam, or have any wings of any sort or description attached.

Section 7. That hereafter it shall be unlawful to use stake nets parallel with the tide at any time of the year within the limits of tidewater in any river described in the first section of this act, excepting said nets have a mesh of not less than two and one-half inches stretched measure; and provided that said nets shall not be set or placed across the mouth of any stream flowing into said river, or in such a manner as to obstruct navigation to or from such stream, or to obstruct the way to any wharf or boat-landing. Provided further, That no fish shall be taken, captured or killed, excepting carp, catfish, eels, mullets, suckers, and that all other species of fish shall be immediately set free. Any person violating any of

the provisions of this section shall, on conviction thereof, be subject to a penalty of one hundred dollars and, in addition, to a penalty of ten dollars for each and every fish unlawfully taken.

Section 8. That hereafter it shall be unlawful to fish in any river described in the first section of this act for shad, herring or alewife, striped bass, otherwise called rock fish, and other food fishes, and Atlantic salmon, excepting sturgeon, with seine or haul nets, from the fifteenth day of June to the fifteenth day of August, inclusive, in each year; and no haul or seine nets having a mesh of less than two and one-half inches stretched measure shall be used at any time for shad fish. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of one hundred dollars, and in addition, to a penalty of ten dollars for each and every fish unlawfully taken.

Section 9. That hereafter it shall be unlawful to fish in any river described in the first section of this act for shad, striped bass, otherwise called rock fish, and other food fishes, and Atlantic salmon, excepting sturgeon, with drift gill nets in tidewaters, from the fifteenth day of June to the fifteenth day of August, inclusive, in each year; and no gill nets having a mesh of less than five inches stretched measure shall be used at any time for said fish. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of one hundred dollars.

Section 10. That hereafter it shall be unlawful to fish in any river described in the first section of this act with drift gill nets for herring or alewife, and other food fishes, excepting shad, striped bass, or rock fish, and sturgeon, for which other devices are prescribed in this act, in tidewaters from the fifteenth day of June, to the fifteenth day of August in each year; and no gill nets having a mesh of less than two and one-half inches stretched measure shall be used at any time for said fish. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of one hundred dollars.

Section 11. That hereafter it shall be unlawful to fish in any river described in the first section of this act for sturgeon in tidewater with drift gill nets, except from the first day of May to the first day of October, inclusive, in each year; and no drift gill net having a mesh of less than ten inches stretched measure shall be at any time used for said fish. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of one hundred dollars.

Section 12. That hereafter it shall be unlawful to kill and have in possession, the same having been caught in any river described in the first section in this act, any mamoose, or young sturgeon, less than five feet in length, at any time of the year. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of twenty dollars for each mamoose, or young sturgeon, of less size than described, so captured, killed or had in possession.

Section 13. That hereafter it shall be unlawful to kill or have in possession, the same having been caught in any river described in the first section of this act, any striped bass or rock fish of the age and size commonly called "mammy rock," or which are more than

thirty pounds in weight. Any person who shall kill or have in possession, the same being dead, any mammy rock or striped bass over thirty pounds in weight, caught in said waters, shall, on conviction thereof, be subject to a penalty of twenty dollars for each fish captured, killed or had in possession.

Section 14. That hereafter it shall be unlawful to purchase, sell or have in possession, the same having been caught in any river described in the first section of this act, any dead game or food fish, excepting during the lawful period for catching the same and the space of six days thereafter. Any person or persons violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of ten dollars for each fish.

Section 15. That hereafter any person fishing in any river described in the first section of this act who shall capture any food or game fish of a size less, or a weight greater, than that designated by this act, or which may not be legally taken by the device used, shall immediately return the same unharmed to the waters from which they were taken. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a fine of ten dollars for each fish so captured and not returned, excepting where otherwise provided.

Section 16. That hereafter it shall be unlawful to fish in any waters described in the first section of this act with dynamite, nitroglycerine, torpedoes, electricity, quicklime, or with any kind of explosives or poisonous substances, or to place such substances in any waters whatsoever, except for engineering purposes when written permission has been given therefor by the Department of Fisheries, the Chief of Engineers of the War Department of the United States Government, or the county commissioners of the county adjoining the river in which the substances are to be used. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a fine of one hundred dollars, or an imprisonment of six months in the county jail, or both, at the discretion of the court.

Section 17. That hereafter it shall be unlawful for any person, persons or corporation, to place, or allow to pass into or upon any part of any river described in the first section of this act, any fish offal, contents of any tannery vats, coal tar, gas tar, oil refuse, saw dust, planing mill shavings, refuse from vats, or any waste acid water from any manufactory, or any other deleterious substances. Any person violating any of the provisions of this section shall, on conviction thereof, be subject to a penalty of one hundred dollars, or, in default of payment, be imprisoned in the county jail for a period of three months.

Section 18. That hereafter it shall be lawful to catch minnows, including killifishes and stone catfishes, from any river described in the first section of this act, at any time of the year, by means of minnow seines not more than fifteen feet long, or by means of dip nets, scoop nets and minnow traps, or rod and line, or hand line having not more than three hooks; Provided, That any other species of fish, save those described, shall be immediately returned unharmed to the water. Any person violating any of the provisions

of this section shall, on conviction thereof, be subject to a penalty of ten dollars, excepting where otherwise provided.

Section 19. That hereafter it shall be unlawful to fish in any river described in the first section of this act for any species of game fish, other than white and yellow perch, except from June fifteenth until November first in each year. Any person catching and killing any game fish, other than white and yellow perch, at any other time of the year than that prescribed above, in any river described in the first section of this act shall, on conviction thereof, be subject to a penalty of ten dollars for each and every fish illegally taken.

Section 20: That nothing in this act shall prohibit the fisheries authorities of any state bordering on any river described in the first section of this act, or through their authorized representatives, from taking any species of fish at any time of the year for stocking or other form of propagating purposes, or prohibit said authorities from removing by means of nets, their authorized representatives, any fish which they may jointly deem injurious to other food and game fishes.

Section 21. That hereafter it shall be unlawful to use any nets or other devices, authorized for the catching of food fish, from sunset on Saturday of each week until after midnight on Sunday, at any time of the year; and any person who shall use any nets or devices contrary to the provisions of this section shall be subject to the penalty or penalties provided for violation of any section or sections of this act authorizing the use of said nets or devices; Provided, That fishing with haul or seine and drift nets shall cease at noon on Saturday until after midnight Sunday, at any time of the year.

Section 22. That hereafter, in addition to the penalties provided for the violation of the provisions of any section of this act, any boats, nets or other appliances used, shall be forfeited to the Department of Fisheries.

Section 23. That hereafter any duly commissioned warden, constable, or other peace officer, of any State having jurisdiction, is authorized and empowered to make arrests for any violations of this act in such parts of said river within the jurisdiction of this Commonwealth; but the prisoner or prisoners must be taken to a justice of the peace, alderman or magistrate, in the Commonwealth, in the county nearest the point where the offence was committed, and charge be made under the legal procedure of this Commonwealth.

Section 24. That the methods of legal procedure, and the disposition of the fines or penalties for the violation of any of the provisions of this act, shall be in accordance with those provided in existing acts relating to fish and fishing within this Commonwealth.

Section 25. That only so much of this act shall go into immediate effect as in accord with existing concurrent legislation of the State of New Jersey. The remaining portions of this act shall go into effect when the State of New Jersey passes similar concurrent legislation.

Section 26. That when the State of New Jersey concurs in all of the provisions of this act, then all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 22, 1905.

I file herewith, in the office of the Secretary of the Common wealth, with my objections, House bill No. 731, entitled "An act to protect the fish, and to regulate the fishing, in rivers forming a boundary line between this and another State; to declare the devices which may and which may not be used for catching fish from said waters, and to provide punishments for violating the provisions of this act."

This bill makes it unlawful to fish by certain methods therein described, and to purchase or sell, or have in possession, fish caught by these methods "in rivers forming a boundary line between this and another state." Penalties and, in some instances, imprisonment are imposed for the violation of the act. Article III, Section 7, of the Constitution makes it unlawful for the General Assembly to pass any local or special law "regulating labor, trade, mining or manufacturing." Fishing for food fish, in order that the same may be sold, is a labor, and perhaps a trade, within the meaning of this language. The Delaware River is the only river which forms a boundary line between this and another State, and therefore the proposed legislation would appear to be special legislation, within the language of the Constitution and the decision of Blankenberg vs. Black, 200 Pennsylvania, page 629. At all events, this legislation is contrary to the spirit of the Constitution, since it proposes to make criminal a method of fishing in the Delaware river which would be permitted in Lake Erie and the Ohio river. The bill is also objectionable for the reason that it experiments with legislation. Section twenty-five provides, "That only so much of this act shall go into immediate effect as is in accord with existing concurrent legislation of the State of New Jersey. The remaining portions of this act shall go into effect when the State of New Jersey passes similar concurrent legislation." Section twenty-six provides, "That when the State of New Jersey concurs in all of the provisions of this act, then all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed." Legislation which proposes to impose penalties ought to be direct and specific. The persons who are required to obey the directions of the act would be compelled to study the legislation of another Commonwealth, and to construe it, in order to determine whether or not it is in accord. Other portions of the act are only to go into effect upon the happening of an event, to wit, the passing of similar concurrent legislation by another State, which may never occur. Whether or not the previous legislation of this Commonwealth is repealed depends upon the concurrence of another State "in all of the provisions of this act." That State may never concur, and, as to some of the provisions, is never likely to concur. For instance, section twenty-two provides that "any boats, nets or other appliances used shall be forfeited to the Department of Fisheries." Section twenty-three provides that "any duly commissioned warden, constable, or other peace officer of any State having jurisdiction, is authorized and empowered to make arrests for any violations of this act in such parts of said river within the jurisdiction of this

Commonwealth." To give authority to the officers of a foreign jurisdiction to make arrests within this Commonwealth would be to set a dangerous precedent.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 68.

AN ACT

To amend an act, entitled "An act providing for the incorporation and government of cities of the third class," approved the twenty-third day of May, Anno Domini one thousand eight hundred and eighty-nine.

Section 1. Be it enacted, &c., That section one of article one of an act, entitled "An act providing for the incorporation and government of cities of the third class," approved the twenty-third day of May, Anno Domini one thousand eight hundred and eighty-nine, which reads as follows:

"Section 1. Be it enacted, &c., That cities of the third class shall be chartered whenever a majority of the electors of any town or borough, or of any two or more contiguous towns or boroughs situate within the limits of the same county, and having together a population of at least ten thousand according to the last preceding United States census, shall vote at any general election in favor of the same; and whenever the corporate authorities of any such towns or boroughs shall, by resolution thereof duly passed, and recorded among the minutes, determine to hold an election upon the question of becoming a city, they shall give notice thereof during at least four weeks, immediately prior to the next general election, in all the newspapers published in said towns or boroughs, that such an election will be held; and at the said general election it shall be the duty of the inspectors and judges of elections, within said towns or boroughs, to receive tickets, either written or printed, from the electors thereof qualified to vote, by the Constitution of this State, labelled on the outside "city charter," and containing on the inside "for city charter" or "against the city charter," and to deposit said tickets in a box to be provided for that purpose; and the tickets so received shall be counted, and a return thereof made to the clerk of the court of quarter sessions of the proper county, and a duplicate returned to the Secretary of the Commonwealth, each duly certified in the manner required by law; and in receiving, counting, and making returns of the votes cast the inspectors, judges, and clerks of said election shall be governed by the laws of this Commonwealth regulating general elections; and all electors, inspectors, judges, and clerks voting at, and in attendance upon, the election to be held under the provisions of this act, shall be subject to the penalties imposed by the election laws of this Commonwealth," shall be and is hereby amended to read as follows:

Section 1. That cities of the third class shall be chartered whenever a majority of the electors of any town or borough, or of any two or more contiguous towns or boroughs, situate within the limits of the same county, and having together a population of at least ten

thousand according to the last preceding United States census, shall vote at any general election in favor of the same; and whenever one hundred in number of qualified electors of any such towns or boroughs shall present their petition to the court of quarter sessions of the proper county, praying the said court that an election may be held upon the question of becoming a city, it shall be the duty of the said court to order and direct that an election be held at the time and place of holding the next general election in such town or borough, and that notice thereof shall be given during at least four weeks, immediately prior to such general election, in all the newspapers published in said towns or boroughs, that such an election will be held; and at the said general election it shall be the duty of the inspectors and judges of elections within said towns or boroughs to receive tickets, either written or printed, from the electors thereof qualified to vote, by the Constitution of this State, labelled on the outside "city charter," and containing on the inside "for city charter', or "against city charter"' and to deposit said tickets in a box to be provided for that purpose; and the tickets so received shall be counted and a return thereof made to the clerk of the court of quarter sessions of the proper county, and a duplicate return to the Secretary of the Commonwealth, each duly certified in a manner required by law; and in receiving, counting and making returns of votes cast, the inspectors, judges and clerks of said election shall be governed by the laws of this Commonwealth regulating general elections; and all the electors, inspectors, judges, and clerks voting at, and in attendance upon, the elections to be held under the provisions of this act shall be subject to the penalties imposed by the election laws of this Commonwealth.

Section 2. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 24, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 190, entitled "An act to amend an act, entitled 'An act providing for the incorporation and government of cities of the third class,' approved the twenty-third day of May, Anno Domini one thousand eight hundred and eighty-nine."

The title to this bill does not contain the subject of the proposed amendment, as required by Article III, Section 3, of the Constitution.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 69.

AN ACT

To establish a Dental Council and a State Board of Dental Examiners; to define the powers and duties of said dental council and said State Board of Dental Examiners; to provide for the examination and licensing of practitioners of denistry, and to further regulate the practice of denistry; providing for payment and disposition of fees and fines; to prohibit the practice of denistry by unlicensed persons, and fixing punishment for its violation.

Section 1. Be it enacted, &c., That there shall be established a Dental Council of Pennsylvania, consisting of the Superintendent of Public Instruction, the President of the State Board of Health and Vital Statistics, the President for the time being of the Pennsylvania State Dental Society, the Secretary of the Board of Dental Examiners, the Secretary of Internal Affairs.

Section 2. The said Council shall be known by the name and style of the Dental Council of Pennsylvania; and may make and adopt for its government all necessary rules, regulations and by-laws, not inconsistent with the Constitution and the laws of this Commonwealth or of the United States, and shall have power to locate and maintain an office within this State for the transaction of business. Three members of the said Council, one of whom shall be the President of the Pennsylvania State Dental Society, or the Secretary of the Board of Dental Examiners, shall constitute a quorum for the transaction of business. In case of the absence of the President of the Pennsylvania State Dental Society from any unavoidable cause, he may nominate, in writing, one of the vice-presidents of that society to represent him at the meetings of the Dental Council of Pennsylvania, and the person so nominated shall be entitled to vote at the meetings, and his presence shall be equivalent to that of the President of the Pennsylvania State Dental Society in constituting a quorum of the said Dental Council.

Section 3. The said Council shall organize at Harrisburg, within thirty days from the date of the organization of the Board of Dental Examiners, and shall elect from its own number a president. The secretary of the Dental Council, who shall also act as treasurer, shall be the secretary and treasurer for the time being of the Medical Council of Pennsylvania. The president and secretary shall hold their offices for one year, or until their successors are chosen.

Section 4. The said Dental Council shall hold two stated meetings in each year, at Harrisburg, and they may hold special meetings at such times and places as they deem proper. They shall supervise the examinations, conducted by the State Board of Dental Examiners, of all applicants for license to practice dentistry in this Commonwealth, for the purpose of securing the conduct of examinations in harmony with the provisions of this act, and may issue licenses to practice dentistry to such applicants as have presented satisfactory and properly certified copies of licenses from the State Board of Dental Examiners or State Boards of Health of other States, as provided for in section twelve of this act.

Section 5. There shall be, and continue to be, a Board of Dental Examiners for the State of Pennsylvania, which shall consist of six members, as at present constituted, and each of said members shall serve for a term of three years from the first day of September

next after his appointment. The Pennsylvania State Dental Society shall, at its annual meeting, select as nominees the names of double the number of examiners required, who shall be members in good standing of the Society, and transmit such names to the Governor, under its seal and signed by its secretary. From this list of nominees the Governor shall annually, during the month of August, appoint successors to those members whose term of office shall expire on the first day of September of each year. In case of failure of the said Pennsylvania State Dental Society to submit such list, as aforesaid, the Governor shall appoint members in good standing of the said Society, without other restrictions. Each one of the said appointees must be a registered, bona fide practitioner of dentistry, in good standing, and shall have practiced dentistry under the laws of this State for a period of not less than ten years. No member of a dental college faculty shall be eligible to appointment upon the State Board of Dental Examiners, but this shall not apply to membership in the Dental Council. The Governor shall fill vacancies, by death or otherwise, for the unexpired term of said examiners, from the list of names submitted to him by the Dental Society, and shall remove any member of said Board for continued neglect of the duties required by this act, or, on recommendation of the said Dental Society, for incompetency, unprofessional or dishonorable conduct.

Section 6. Said Board shall be known by the name and style of Board of Dental Examiners of the State of Pennsylvania. Every person who shall be appointed to serve on said Board shall receive a certificate of appointment from the Secretary of the Commonwealth. Said Board shall be authorized to take testimony concerning all matters within its jurisdiction, and the presiding officer for the time being of the said Board, or of any of the committees thereof, may issue subpoenas and administer oaths to witnesses. Said Board of Examiners shall make and adopt all necessary rules and regulations and by-laws, not inconsistent with the Constitution and laws of this State or of the United States, whereby to perform the duties and transact the business required under the provisions of this act. Said rules, regulations and by-laws to be subject to the approval of the Dental Council of Pennsylvania, established by this act.

Section 7. From the fees provided by this act the Examining Board shall be paid all expenses incurred by its provisions, in the conduct of its business as a Board; and if any surplus above said expenses shall remain at the end of the year, it shall be apportioned among said examiners pro rata, according to the number of candidates examined by each.

All disbursements of money, provided for in this act, shall be made by the secretary of the Dental Council, upon the instructions of the Dental Council, who shall give all such instructions by resolutions in such case, adopted by a quorum as defined in section two of this act.

Section 8. The Board of Examiners shall meet annually, on the first day of October, to organize. Suitable notice, in the usual form, being given with the notice of their appointment, by the Secretary of the Commonwealth, to each of the members thereof, specifying

the time and place of meeting. At the said meeting of the Board an organization shall be effected, by the election from their own membership of a president and secretary. For the purpose of examining applicants for license, the State Board of Dental Examiners shall hold two or more stated or special meetings each year, due notice of which shall be made public, at such time and place as they may determine. At such stated or special meetings a majority of the members of the Board shall constitute a quorum thereof; but the examinations may be conducted by a committee of one or more of the examiners, duly authorized by said Board.

Section 9. Subjects for examination. All candidates for license to practice dentistry in the State of Pennsylvania (with the exception of those otherwise provided for in section twelve of this act) shall be required to pass an examination by the State Board of Dental Examiners upon the following subjects: One—general anatomy and physiology; two—special dental anatomy; three—dental histology; four—Dental physiology; five—chemistry and metallurgy; six—Materia Medica; seventh—Dental pathology, bacteriology, and therapeutics; eighth—anesthesia; nine—oral surgery; ten—principles and practice of operative and posthetic dentistry. Each applicant shall also furnish to the Board of Dental Examiners satisfactory evidence of his or her proficiency in the manipulative procedures of dentistry, either by producing an example of his or her work, with an affidavit as to the execution of same, and duly attested by the demonstrator in charge of the clinic of the college issuing his or her diploma, or by a practical demonstration of his or her skill in the presence of the examining members of the said Board.

Section 10. Said examination shall be conducted in writing, and shall embrace all the subjects named in section nine of this act. After each examination the Board having charge thereof shall, without unnecessary delay, act upon the same. An official report of such action, signed by the president and secretary and each acting member of the said Board of Dental Examiners, stating the examination average of each candidate in each branch, the general average, and the results of the examination, whether successful or unsuccessful, shall be transmitted to the Dental Council. The said report shall embrace all the examination papers, questions and answers thereto. All such examination papers shall be filed by the Dental Council, at Harrisburg, and kept for reference and inspection for a period of not less than five years.

Section 11. On receiving from the said Board of Dental Examiners such official report of the examination of any applicant for license, the Dental Council shall issue forthwith, to each applicant who shall have been returned as having successfully passed said examination, a license to practice dentistry in the State of Pennsylvania. Every license to practice dentistry, issued pursuant to this act, shall be subscribed by the officers of the Dental Council and by each Dental Examiner who reported the licentiate as having successfully passed said examination, and sealed with the seal of the Dental Council of the Commonwealth of Pennsylvania. It shall be recorded in a book to be kept in the office of the Dental Council, and the number of the book and page therein containing said recorded copy shall be noted upon the face of said license. Said records shall

be open to public inspection, under the proper restrictions as to their safe keeping; and in all legal proceedings such records, and copies or exemplifications thereof, certified by the secretary of the Dental Council, under its seal, shall have the same weight as evidence that is given to records and certified copies of deeds for the conveyance of land.

Section 12. On and after the passage of this act, any person not heretofore authorized to practice dentistry in this State, and desiring to practice dentistry in this State, may deliver to the secretary of the Dental Council, upon the payment of a fee of twenty-five dollars, a written application for license, together with satisfactory proof that the applicant is not less than twenty-one years of age, is of good moral character, has obtained a competent common school education, and has received a diploma conferring the degree of Doctor of Dental Surgery, or other recognized dental degree, from a reputable institution recognized as of good repute by the Board of Dental Examiners of this State, and legally competent to confer the same. Applicants who have received their degree in dentistry after the first day of October, one thousand eight hundred and ninety-seven, must have pursued the study of dentistry for at least three years, including three regular courses of lectures, each extending over a period of at least six months in separate years in some legally incorporated dental college or colleges, prior to the granting of said diploma; such proof shall be made, if required, upon affidavit. Upon making such payment and proof, the Dental Council, if satisfied with the same, shall issue to such applicant an order for examination before the State Board of Dental Examiners. In case of failure at any such examination, the candidate, after the expiration of six months and within two years, shall have the privilege of a second examination by the said Board, without the payment of an additional fee; but for any subsequent examination he shall pay the usual fees prescribed in this act.

And it is further provided that applicants examined and licensed by the State Board of Dental Examiners or State Boards of Health of other States, on payment of a fee of twenty-five dollars to the secretary of the Dental Council, and on filing in the office of the Dental Council a copy of said license, certified with the affidavit of the president and secretary of such Board, showing that the standard of requirements adopted by the said State Board of Dental Examiners or State Board of Health is substantially the same as provided by this act, may, without further examination, receive a license conferring on the holder thereof the right to practice dentistry in this Commonwealth. Upon the recommendation of the Board of Dental Examiners, the Council may also, without the written examination hereinbefore provided for, issue a license to any applicant therefor who shall furnish proof, satisfactory to them, that he has been duly licensed to practice dentistry in any state or country, after full compliance with the requirements of its dental laws, and has been thereafter lawfully and reputably engaged in such practice for five years next preceding his application; provided that his preliminary and professional education shall have been not less than that specified in this act. Every license so issued shall state upon its face the grounds upon which it is granted.

Section 13. It shall be unlawful for any person to practice dentistry within this Commonwealth unless such person shall have obtained a license and registered the same, as provided by this act: Provided, That this act shall not affect the right of any person to practice dentistry, who shows that he or she is entitled to do so under the provisions of an act of Assembly heretofore in force.

Section 14. All persons shall be construed to be practicing dentistry who shall be the owner, part owner, partner, shareholder, operator, manager, assistant, or in any other manner engaged in conducting any office, dental parlor, or other place, for the purpose of performing dental operations, or treating, extracting or filling human teeth, or inserting artificial appliances or sets of artificial teeth, for hire or reward: Provided, That this act shall not prohibit any licensed dentist having any person as assistant or attendant to perform any services other than extracting, filling, treating or operating upon human teeth, or the taking of impressions for, and the insertion of, artificial appliances in the mouth.

Section 15. It shall be the duty of every person practicing dentistry within this Commonwealth, within six months from the passage of this act, to cause their license to be registered in the office of the prothonotary of the court of common pleas of the county in which such persons shall practice dentistry, unless the same has already been registered in said county. Any person who shall neglect to cause his or her license to be registered, as herein provided, shall be construed to be practicing dentistry without a license.

Section 16. It shall be the duty of every person practicing dentistry within this Commonwealth to display, or cause to be displayed, his or her name, posted in a conspicuous place, at or near the entrance to the office or place where he or she is practicing dentistry.

Section 17. It shall be unlawful for any person to employ any person as an operator in oral surgery or practitioner in dentistry, for hire or reward, or to cause or to permit any person to act as an operator in oral surgery or as a practitioner in dentistry, for hire or reward, who is not duly qualified and registered as a practitioner in dentistry, as provided by law.

Section 18. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both fine and imprisonment, at the discretion of the court.

Section 19. All fines recovered under this act, from convictions resulting from informations instituted by the Pennsylvania State Dental Society, shall be paid to the said society.

Section 20. Nothing in this act shall be construed to interfere with or punish physicians or surgeons, in the regular practice of their profession, from extracting teeth for the relief of pain, or making applications for such purpose; or shall interfere with or prevent bona fide students of dentistry, in the regular course of their instruction, from operating upon patients at clinics, or under the immediate supervision, and in the presence, of their preceptor who is in lawful practice: Provided, That no fee, salary or reward for such operations shall be received, either directly or indirectly, under any circumstances, by any student of dentistry. And nothing in

this act shall be construed to prohibit the practice of dentistry, within this Commonwealth, by any practitioner who shall have been duly registered in accordance with the laws of this Commonwealth, existing prior to the passage of this act; or who shall have been in the actual, continuous and bona fide practice of dentistry, in an established office, for a period of five years prior to the passage of this act.

Section 21. All acts and parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 24, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 112, entitled "An act to establish a Dental Council and a State Board of Dental Examiners; to define the powers and duties of said Dental Council and said State Board of Dental Examiners; to provide for the examination and licensing of practitioners of dentistry, and to further regulate the practice of dentistry; providing for payment and disposition of fees and fines; to prohibit the practice of dentistry by unlicensed persons, and fixing punishment for its violation."

Section eighteen provides, "any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both fine and imprisonment, at the discretion of the court." One of the provisions of the bill is contained in section five, and is to this effect "From this list of nominees the Governor shall annually, during the month of August, appoint successors to those members whose term of office shall expire on the first day of September of each year." These sections are brought into juxtaposition in order to show the futility of trying to make every conceivable breach or neglect of duty a crime, punishable by imprisonment. In our legislation it is growing to be a habit, and it is full time that the tendency be curbed.

For this reason an otherwise carefully drawn bill, for a proper purpose, meets with disapproval.

SAML. W. PENNYPACKER.

No. 70.

AN ACT

To amend the first section of an act, entitled "An act authorizing the county commissioners of the several counties of this Commonwealth to rebuild bridges on sites owned by corporations or by private persons, or built by public subscriptions, over any stream or river forming the boundary line between two counties, where the same have been destroyed by ice, flood, or otherwise, at any time, or which may have been or may be abandoned by the owners thereof and rebuilt on another site, and which were previously used exclusively for vehicles and foot purposes, and providing for the cost of reconstructing the same," approved the sixth day of May, Anno Domini one thousand eight hundred and ninety-seven; providing that such bridges shall be built by the county commissioners jointly with the Board of Public Grounds and Buildings of the Commonwealth of Pennsylvania; that the cost thereof shall be paid one-half by the Commonwealth of Pennsylvania, and one-half by the counties; and declaring the manner of ascertaining compensation for the taking or impairment of the rights and franchises of the owners of former bridges.

Section 1. Be it enacted, &c., That the first section of an act, entitled "An act authorizing the county commissioners of the several counties of this Commonwealth to rebuild bridges on sites owned by corporations or by private persons, or built by public subscriptions, over any stream or river forming the boundary line between two counties, where the same have been destroyed by ice, flood, or otherwise, at any time, or which have been or may be abandoned by the owners thereof and rebuilt on another site, and which were previously used exclusively for vehicles and foot purposes, and providing for the cost of reconstructing the same," approved the sixth day of May, Anno Domini one thousand eight hundred and ninety-seven, which reads as follows:

"Section 1. Be it enacted, &c., That the county commissioners of the several counties of this Commonwealth are hereby authorized to take charge of, and rebuild and reconstruct, any bridge over any stream or river forming the boundary line between two counties, when the same is on the line of a public highway, or deemed necessary for the use of the traveling public, and owned and maintained by corporations or by private persons, or which was built by public subscriptions, used exclusively for vehicles and foot purposes, which has been destroyed by ice, flood or otherwise, at any time, or which has been or may be abandoned by the owners of said bridge, and the same rebuilt by said corporation or private persons, or by public subscriptions, on another site. And the said county commissioners of the respective counties are hereby authorized to take charge of, and rebuild and maintain jointly, such bridge as a county bridge, and the cost and expenses of such joint reconstruction shall be paid by the said counties, respectively, in the proportion of the population thereof as ascertained by the last census," shall be and the same is hereby amended to read as follows:

Section 1. That when any bridge over any stream or river forming the boundary line between two counties, when the same is on the line of a public highway, or deemed necessary for the use of the traveling public, and owned and maintained by corporations or by private persons, or which was built by public subscriptions, used exclusively for vehicles and foot purposes, shall have been or may hereafter be destroyed by ice, flood, or otherwise, at any time, or which has been or may be abandoned, and the site, or location, and piers and abutments no longer used by the owners of said bridge,

and the same rebuilt by such corporation or private persons, or by public subscriptions, on another site, or on new foundations at another point, the county commissioners of the counties joined by said bridge are hereby authorized to take charge of and, jointly, in conjunction with the Board of Public Grounds and Buildings of the Commonwealth of Pennsylvania, rebuild and reconstruct such bridge. And the said commissioners of the respective counties, jointly, and the Board of Public Grounds and Buildings of the Commonwealth of Pennsylvania, are hereby authorized to take charge of and rebuild such bridge as county bridge; fifty per centum of the costs and expenses of rebuilding or reconstruction shall be paid by the Commonwealth of Pennsylvania, by a proper warrant, drawn by the Auditor General on the State Treasurer, payable out of any moneys in the Treasury not otherwise appropriated, and the remaining fifty per centum of the costs and expenses shall be paid by the said counties, respectively, in the proportion of the population thereof as ascertained at the last census. Thereafter such bridge shall be maintained as a count bridge by the respective counties: Provided, That any such bridge, after having been constructed by the county commissioners and Board of Public Grounds and Buildings, at public cost, shall be used only for free travel of the general public, pedestrians and vehicles; but shall not be occupied nor used by any railroad, railway, transportation company, or private corporation, nor shall any right of way be allowed thereon to any corporation chartered for purposes of private gain: Provided further, That just compensation shall be made to the owners of the former bridge, for the taking or impairment of the rights and franchises of such owners, in the same manner as is provided, in the act of which this act is amendatory, for ascertaining the compensation due for piers and abutments.

Section 2. That the first section of the act, entitled "An act to amend the first and second sections of an act, entitled 'An act authorizing the county commissioners of the several counties of this Commonwealth to rebuild bridges on sites owned by corporations or by private persons, or built by public subscriptions, over any stream or river forming the boundary line between two counties, where the same have been destroyed by ice, flood, or otherwise, at any time, or which have been or may be abandoned by the owners thereof, and rebuilt on another site, and which were previously used exclusively for vehicles and foot purposes, and providing for the cost of reconstructing the same," approved the thirteenth day of May, Anno Domini one thousand nine hundred and one, and all acts or parts of act inconsistent herewith, be and the same are, hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 24, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 165, entitled "An act to amend the first section of an act, entitled 'An act authorizing the county commissioners of the several counties of this Commonwealth to rebuild bridges on sites owned by corporations or by private persons,

or built by public subscriptions, over any stream or river forming the boundary line between two counties, where the same have been destroyed by ice, flood, or otherwise, at any time, or which have been or may be abandoned by the owners thereof and rebuilt on another site, and which were previously used exclusively for vehicles and foot purposes, and providing for the cost of reconstructing the same;' approved the sixth day of May, Anno Domini one thousand eight hundred and ninety-seven; providing that such bridges shall be built by the county commissioners jointly with the Board of Public Grounds and Buildings of the Commonwealth of Pennsylvania; that the cost thereof shall be paid one-half by the Commonwealth of Pennsylvania, and one-half by the counties; and declaring the manner of ascertaining compensation for the taking or impairment of the rights and franchises of the owners of former bridges."

This bill provides that when any bridge, over any stream or river forming the boundary line between two counties, "shall have been or may hereafter be destroyed by ice, flood, or otherwise, at any time," the county commissioners of the counties joined by said bridge are authorized to take charge of and jointly, in conjunction with the Board of Public Grounds and Buildings, rebuild and reconstruct such bridge, and the commissioners of the respective counties, jointly, and the Board of Public Grounds and Buildings, are authorized to take charge of and rebuild such bridge as a county bridge, and that "fifty per centum of the costs and expenses of rebuilding or reconstruction shall be paid by the Commonwealth of Pennsylvania * * * and the remaining fifty per centum of the costs and expenses shall be paid by the said counties, respectively, in the proportion of the population."

It further provides, "that just compensation shall be made to the owners of the former bridge, for the taking or impairment of the rights and franchises of such owners, in the same manner as is provided, in the act of which this act is amendatory, for ascertaining the compensation due for piers and abutments." It is reasonably plain that the acts of May 6, 1897, May 26, 1897, July 9, 1901, and the present bill all represent efforts to reconstruct a particular bridge at some locality in the State. The Supreme Court in Seabolt vs. the Commissioners, 187th Pennsylvania, page 318, has held the act of May 6, 1897, not to be unconstitutional because special legislation, and it is our duty, therefore, to construe the present bill as general legislation. It would apply to all such bridges which have been destroyed at any time in the past, no matter how remote. It applies to bridges destroyed by ice, flood, or otherwise. "Otherwise" is a broad and general term, which would cover all conceivable circumstances, even where the destruction is due to negligence or wrong intention.

At the session of the Legislature of 1903, the policy was adopted of confining the cases wherein the Commonwealth should construct county bridges to those where the loss occurred through flood or wind-storm. This bill would be in contravention of the policy then adopted. The legislation which provides for the construction of county bridges by the Board of Public Grounds and Buildings has created a system under which an architect prepares plans, due advertising is made before contracts are awarded, and a superintend-

ent of construction supervises the work. Under the provisions of this bill the bridges would have to be built by the commissioners of the two respective counties, jointly with the Board of Public Grounds and Buildings. While the Commonwealth is to pay fifty per centum of the costs and expenses, there is no assurance that her method of awarding the contract and constructing the bridge would be adopted. No definite means of settling the questions which may arise between the commissioners and the Board of Public Grounds and Buildings is provided. Whether the respective bodies are to vote as organizations, or their members as individuals, is not determined. In either event, the commissioners would decide. Compensation is to be made to the owners of the former bridge. It is to be ascertained in the same manner as the compensation due for piers and abutments, under the act of May 6, 1897. The provisions of that act are that the Court of Quarter Sessions of the county in which the property is situate shall appoint three freeholders of that county to assess the damages and report to that court. Since the bridge is in neither county, but between two counties, this method is uncertain, and the Commonwealth would probably be led into difficulties.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 71.

AN ACT

To amend an act, entitled "An act to define and suppress vagrancy," approved May eighth, one thousand eight hundred and seventy-six.

Section 1. Be it enacted, &c., That the second section of the act, approved May eighth, one thousand eight hundred and seventy-six, entitled "An act to define and suppress vagrancy," which provides as follows:

"If any person shall be found offending, in any township or place, against this act, it shall and may be lawful for any constable or police officer of such township or place, and he is hereby enjoined and required, on notice thereof given him by any of the inhabitants thereof, or without such notice on his own view, to apprehend and convey or cause to be conveyed such person to a justice of the peace or other committing magistrate of the county, who shall examine such person and shall commit him, being thereof legally convicted before him, on his own view or by the confession of such offenders, or by the oath or affirmation of one or more credible witnesses, to labor upon any county farm or upon the roads and highways of any city, township or borough, or in any house of correction, poorhouse, workhouse or common jail, for a term of not less than thirty days and not exceeding six months, and shall forthwith commit him to the custody of the steward, keeper or superintendent of such county farm, house of correction, poorhouse, workhouse or common jail, or to the supervisors or street commissioners, and overseers of the poor of the respective county, city, borough or township wherein such person shall be found, as in his judgment shall be deemed most

expedient; the said justice of the peace or committing magistrate, in every case of conviction, shall make up and sign a record of conviction, annexing thereto the names and records of the different witnesses examined before him, and shall, by warrant, under hand, commit such persons as aforesaid: Provided, Any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any justice of the peace or alderman, in and concerning the execution of this act, may appeal to the present or next general quarter sessions of the city or county, giving reasonable notice thereof, whose orders thereupon shall be final," shall be amended to read thus:

If any person shall be found offending in any township or place against this act, it shall and may be lawful for any constable or police officer of such township or place, and he is hereby enjoined and required, on notice thereof given him by any of the inhabitants thereof, or, without such notice, on his own view, to apprehend and convey or cause to be conveyed such person to a justice of the peace or other committing magistrate of the county, who shall examine such person, and shall commit him, being thereof legally convicted before him, on his own view or by the confession of such offenders, or by the oath or affirmation of one or more credible witnesses, to labor upon any county farm, or upon the roads and highways of any city, township or borough, or in any house of correction, poorhouse, workhouse or common jail, for a term of not less than thirty days and not exceeding six months, and shall forthwith commit him to the custody of the steward, keeper or superintendent of such county farm, house of correction, poorhouse, workhouse or common jail, or to the supervisors or street commissioners, and overseers of the poor of the respective county, city, borough or township wherein such person shall be found, as in his judgment shall be deemed most expedient: Provided, however, That where any such person is so committed for a period of less than six months, that, in such case, the county wherein he is so committed shall not be liable for the payment of any costs in any subsequent proceedings against said person, under the provisions of this act, which shall be commenced against him within six months of the date of said prior commitment. The said justice of the peace or committing magistrate, in every case of conviction, shall make up and sign a record of conviction, annexing thereto the names and records of the different witnesses examined before him, and shall by warrant, under hand, commit such person as aforesaid: Provided, Any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any justice of the peace or alderman in and concerning the execution of this act, may appeal to the present or next general quarter sessions of the city or county, giving reasonable notice thereof, whose orders thereupon shall be final.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 26, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 177, entitled "An act to amend

an act, entitled 'An act to define and suppress vagrancy,' approved May eighth, one thousand eight hundred and seventy-six."

The subject of the amendment to the act of May 8, 1876, which it is proposed to make, is not set forth in the title to the bill, as required by Article III, Section 3, of the Constitution.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 72.

AN ACT

Providing a method whereby moneys due for labor and materials furnished for, and in the construction of, municipal work or improvements of all kinds, may be secured and recovered.

Section 1. Be it enacted, &c., That where labor or materials are furnished for, and in the construction of, any municipal work or improvement, any subcontractor who has furnished labor or material therefor may, at the time of furnishing the same, or thereafter, and within sixty days after said labor has been furnished or said materials placed upon the ground, give a written notice, duly sworn to by said subcontractor or by one of his or its agents or officers, to the city, borough, or other municipal, or quasi-municipal, corporation, being the owner or haivng control of, or being responsible for, the said work or improvements, setting forth:

First. The name of the claimant.

Second. The name of the city, borough, or other municipality owning, controlling or being responsible for said work or improvements.

Third. The name of the party with whom the claimant contracted, and whether or not such party contracted directly with such city, borough, or municipality.

Fourth. A copy of claimant's contract, if in writing, or a statement of the terms and conditions thereof, if any of them were oral.

Fifth. A detailed statement of the kind and character of the labor or materials furnished, and the prices charged for each.

Sixth. The sum claimed to be now due from or owing by the contractor for such work or materials, together with such description of the work or improvements as may be necessary for the purpose of identification.

Seventh. The date when claimant first furnished labor or materials therefor, and when he last did so.

Upon the subcontractor entering into a bond to the Commonwealth of Pennsylvania, for the use and benefit of the contractor, indemnifying him against any loss he may sustain by reason of said action by the subcontractor, in the amount of his claim, with one good and sufficient surety, said bond to be approved by the court of Common Pleas of the respective county, and to be entered with the record of the case, the said municipality shall make no further payments to the contractor; and unless such claim be paid by the contractor, or adequate security be given to protect all such claimants, and upon the failure of the contractor to make payment or give

security as hereinbefore provided, the municipality shall pay the balance actually due the contractor in the court of common pleas of the county in which said municipality is situate, for the distribution to and among those parties entitled thereto, upon the termination of a suit which shall be brought in the name of the contractor, to the use of the parties interested, against said municipality to recover said debt.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 26, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 479, entitled "An act providing a method whereby moneys due for labor and materials furnished for, and in the construction of, municipal work or improvements of all kinds, may be secured and recovered."

This bill provides that where labor or materials are furnished in any municipal work a subcontractor may "at the time of furnishing the same, or thereafter, and within sixty days after such labor has been furnished or said materials placed upon the ground," give a written notice to the municipality, setting forth the particulars of his claim, and entering a bond "in the amount of his claim, with one good and sufficient surety," whereupon the municipality shall make no further payments to the contractor, and unless the contractor make payment, or give adequate security, the municipality shall pay the moneys due the contractor into the court of common pleas to await the result of a suit. The scheme here proposed is imperfect for many reasons. The contract between the contractor and subcontractor may have provided for the payment at some later time than the furnishing of the labor or the placing of the materials upon the ground. In that event, no amount would at this time be due. The work and materials may have been quite imperfect, and in that event it would be very unjust to the contractor to require the sum due to him under his contract, covering it may be a much larger sum than the amount claimed by the subcontractor, to be paid into court, with the attendant difficulties and expense which would thereupon ensue. The bond to be filed is apparently in the amount of the claim of the subcontractor. The amount of his claim may be very small, and the amount due to the contractor may be very large in comparison. The number of sureties is limited to one, instead of two as is usual in obligations of this character, but it ought to be left to the court to determine what, under the circumstances, would be adequate security.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 73.

AN ACT

Relating to the recording and indexing of deeds, mortgages and other instruments, providing when the same shall take effect, regulating the duties of the Recorder, and repealing inconsistent acts.

Section 1. Be it enacted, &c., That all deeds, mortgages, and

other instruments of writing, wherein it shall be the intention of the parties executing the same to grant, bargain, sell convey, or encumber any lands, tenements or hereditaments, situate, lying and being in this Commonwealth, upon being acknowledged by the parties executing the same, in the manner now or hereafter provided by the laws of this Commonwealth, shall be recorded in the office for recording of deeds in the county where such lands, tenements and hereditaments are situate, lying and being; and every such instrument shall, as against any bona fide purchaser or mortgagee, take effect and have priority according to the time of recording the same, without regard to the date thereof; and shall be adjudged fraudulent and void against any subsequent bona fide purchaser or mortgagee unless such deed, mortgage or other instrument of writing shall be recorded, as aforesaid, before the recording of the deed, mortgage or other instrument under which subsequent purchaser or mortgagee shall claim: Provided, That this act shall not apply to leases for less than ten years, where actual possession and occupation accompanies the lease: And provided also, That no mortgage given by the grantee to the grantor, for the purchase money of the land so mortgaged, shall be affected by the passage of this act, if the same be recorded within ten days from the date thereof: And provided further, That no deed or other instrument for the conveyance of the title to real estate shall be affected by the passage of this act, if the same be recorded within thirty days from the date of its execution.

Section 2. It shall be the duty of the Recorder of Deeds to endorse upon all deeds, mortgages or other instruments of writing the time when the same are left for record, as herein provided, and to number the same according to the time when they were left for record; and if two or more such instruments, affecting the same property, are left for record upon the same day, they shall have priority according to the time when they are left at the office of the recorder, for record as aforesaid; and no mortgage or defeasible deed shall be a lien until same shall have been left for record, as aforesaid. And it shall be the further duty of said Recorder to index all such deeds, mortgages and other instruments in the names of the parties thereto, in the proper index or indexes, each name being noted under the proper letter, chronologically, in the order in which the several instruments are left for record.

Section 3. All act or parts of acts of Assembly of this Commonwealth inconsistent herewith are hereby repealed.

Section 4. This act shall take effect from and after six months from the date of its enactment.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 26, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 88, entitled "An act relating to the recording and indexing of deeds, mortgages and other instruments; providing when the same shall take effect; regulating the duties of the Recorder, and repealing inconsistent acts."

Under the law, as it exists at present, the purchaser of real

estate has three months within which to record his deed, and the mortgage sixty days in which to record a purchase money mortgage. There are many lawyers who think that this system is objectionable, for the reason that it gives an opportunity for fraud, and that deeds and mortgages unless recorded should be void as against a subsequent bona fide purchaser or mortgagee. The bill as originally drawn was intended to accomplish this result, and would have required the immediate recording of such instruments. It has been amended, however, in such a way as to allow thirty days for the recording of deeds, and ten days for the recording of purchase money mortgages. The only effect, therefore, would be to change the time, and still to allow the opportunity for fraud where the intention to defraud exists. In other words, it does not accomplish the good intended, and leads to confusion, since men have generally become familiar with the time fixed by the present law and have learned to know its advantages and disadvantages.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 74.

AN ACT

To provide for the qualifications of road jurors and viewers in all proceedings for the laying out of roads and highways, and for the assessment of damages and benefits arising out of the opening, widening, narrowing, vacating, or changing of grade of streets, roads and highways; the construction of bridges, sewers, abutments and embankments, and the laying of water-pipes; the condemnation of property for park purposes, reservoirs, school-houses, police- and fire-patrol houses, or other public purposes; construction of elevated railroads, steam railroads, subways and pipe-lines, and for all purposes for which jurors or viewers are appointed by the courts to ascertain the damages or benefits caused by the exercise of the power of eminent domain.

Section 1. Be it enacted, &c., That from and after the passage of this act, that all road jurors or viewers appointed by any court of this Commonwealth, in any proceedings for the laying out of any road or highway, or for the assessment of damages and benefits arising out of the opening, widening, narrowing, vacating, or changing of grade of streets, roads and highways or for the construction of bridges, sewers, abutments and embankments, and the laying of water-pipes, or the condemnation of property for park purposes, reservoirs, school-houses, police and fire-patrol houses, or other public purposes, or in the construction of elevated railroads, steam railroads, and pipe-lines, and for any other purpose for which jurors or viewers have been heretofore appointed by the courts of this Commonwealth to ascertain the damages or benefits caused by the exercise of eminent domain, shall be citizens of the county in which the said proceedings or proceeding have been instituted, qualified to vote for members of the Legislature.

Section 2. It shall not be lawful for any court of this Commonwealth, in any of the above mentioned proceedings, to appoint any person as road juror or viewer who shall be in the employ at the time of his appointment of the Federal, State, county, city, borough or township government.

Section 3. It shall not be lawful for any court of this Commonwealth to appoint any person as a juror or viewer, in any of the

above mentioned proceedings, while the said person is acting in the capacity of juror or viewer in any other proceeding.

Section 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 26, 1905.

I file herewith, in the office of the Secretary of the Commonwealth with my objections, Senate bill No. 190, entitled "An act to provide for the qualifications of road jurors and viewers in all proceedings for the laying out of roads and highways, and for the assessment of damages and benefits arising out of the opening, widening, narrowing, vacating, or changing of grade of streets, roads and highways; the construction of bridges, sewers, abutments and embankments, and the laying of water-pipes; the condemnation of property for park purposes, reservoirs, school-houses, police and fire-patrol houses, or other public purposes; construction of elevated railroads, steam railroads, subways and pipe-lines, and for all purposes for which jurors or viewers are appointed by the courts to ascertain the damages or benefits caused by the exercise of the power of eminent domain."

Under the law, as it exists at present, the road jurors are required to be freeholders. This bill makes the qualification to be that they shall be "citizens of the county." The judgment of freeholders with respect to the values of land is more likely to be correct than that of persons who have no such ownership. Section three of the bill provides, "it shall not be lawful for any court of this Commonwealth to appoint any person as a juror or viewer, in any of the above mentioned proceedings, while the said person is acting in the capacity of juror or viewer in any other proceeding." Road jurors are like other persons, in the fact that they learn by experience. A knowledge of the method in which these proceedings are conducted, of the experts who are likely to be produced as witnesses, of the particular facts which give values to land in different parts of a municipality, is helpful in reaching a correct estimate. This bill, if it became a law, would require courts to be continually seeking for new and inexperienced persons. It is difficult to see how, practically, the plan could be carried into effect. In the city of Philadelphia there are five courts. How is a judge sitting in one of them to know that some other judge in another court may not be appointing a certain person a road juror? This whole question may be safely left to the discretion of the courts.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 75.

AN ACT

Creating the Miners' Relief Association, defining its duties, and providing for the payment of salaries and expenses of the Association.

Section 1. Be it enacted, &c., That within thirty days after this act becomes a law, the Governor shall appoint five persons, citizens of

this Commonwealth, one of whom shall be a practical miner actively engaged at the time of his appointment in the bituminous coal region, and another a practical miner similarly engaged in the anthracite coal region, who shall serve for a term of four years, and who are hereby constituted an association by the name and style of the Miners' Relief Association, which association shall organize at Harrisburg, or other convenient place, within thirty days after the appointment of its members, and elect a president and secretary, and adopt such rules as may be necessary for the carrying out the purposes for which they are appointed.

Section 2. Each member of the Association shall receive a salary of five hundred dollars per annum, except the secretary, who shall receive one thousand dollars per annum; and in addition thereto they shall each receive actual expenses, incurred in the performance of their duties under this law, which said amounts shall be paid quarterly, by warrant of the Auditor General on the State Treasurer, out of funds not otherwise appropriated. All vacancies occurring in the Association shall be filled by the Governor, as soon as convenient after the occurrence of said vacancies.

Section 3. It shall be the duty of the said Association to keep an accurate record of all accidents occurring in or about the coal mines of the Commonwealth, and in the event of the death or total disablement of any miner, or other person employed in or about the mines, to investigate the facts and keep a record of the same. It shall be their further duty to co-operate with the owners or operators of coal mines, and the men employed therein, in all matters looking toward the amelioration of the present condition of the miners, and their relief and assistance in cases of necessity, and adopt such rules and regulations as may be necessary to best carry this work into effect.

Section 4. The Miners' Relief Association shall also become the custodian of any money specifically appropriated by the State to be used for the payment of relief, pensions or annuitites to miners totally disabled, or to the widows and orphans of miners killed in the course of their employment in and about the mines. Each member of the Association shall give a bond to the Commonwealth, in the sum of twenty thousand dollars, for the faithful performance of his duties.

Section 5. It shall be the duty of any persons, firm, limited partnership or corporation engaged in mining coal, within the Commonwealth, to give notice to the secretary of the Association immediately upon the happening of any fatal or serious accident, stating the nature and character of the accident, the name or names of the injured or killed, together with such other information relating to the families of the persons so disabled or killed as are necessary to a proper carrying out of the work of the Association. The Association shall also prepare, with the advice and under the direction of the Attorney General and the Governor, a system of relief and granting pensions or annuities to miners or laborers totally disabled from further manual labor by accidents occurring in their employment in or about the mines, and also to the widows and orphans of miners or laborers killed by accident in the course of their employment in and about the mines; the total amount of the said relief,

pensions and anuities not to be in excess of the moneys specifically appropriated by the Legislature to the said Association for this purpose; and the said pensions or annuities not to be a charge upon, or to be paid out of, any fund not thus specifically appropriated by law. The Association shall have no authority to create any pension or annuity which shall or may become an obligation of the State, or which extends for a longer period than from year to year, as the revenues of the Association will justify and warrant.

Section 6. The Association shall also prepare a report, which shall be submitted to the Governor and to the next Legislature, setting forth in detail the result of its labors, and the conclusions it has reached through the investigations it has pursued, and the information obtained by it; and shall make such recommendation in said report to the Governor and the Legislature, in regard to the various matters under its control, as the facts seem to them to warrant.

Section 7. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 26, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 355, entitled "An act creating the Miners' Relief Association, defining its duties, and providing for the payment of salaries and expenses of the Association."

This bill provides for the appointment by the Governor of five persons, citizens of the Commonwealth, who shall constitute an association to be named the Miners' Relief Association. Section two provides that each member of the Association shall receive a salary of $500 per annum, except the secretary, who shall receive $1,000 per annum; and in addition they shall each receive actual expenses, to be paid quarterly. Whatever can be properly done for the relief of injured or disabled miners and their families ought to be done; but, unfortunately, this bill seems to provide for nothing of a definite character to be accomplished by this Association. Section three provides that it shall be the duty of the Association "in the event of the death or total disablement of any miner, or other person employed in or about the mines, to investigate the facts and keep a record of the same." This record would only be a duplication of the work already provided for as one of the duties of the Department of Mines. Section four directs that the Association "shall also become the custodian of any money specifically appropriated by the State to be used for the payment of relief, pensions or annuities to miners totally disabled, or to the widows and orphans of miners killed in the course of their employment in and about the mines." Here is an arrangement for some substantial work to be done; but, unfortunately, no such appropriations have been made by the State, and, therefore, there is nothing of which the Association would be the custodian. There is no other means provided, and no suggestion of any kind in the bill by which other moneys might be secured. In the absence of appropriations for this purpose, to hold out such a hope to the families of dead miners would

be only a deception and a delusion. When the Commonwealth is ready to provide means for this purpose it will be time enough to arrange a system for their control. Section six provides for a report to be submitted to the Governor and the Legislature, but with the lack of substance in the other parts of the bill such a report would appear to be unnecessary. There are no other provisions in the bill.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 76.

AN ACT

To regulate fishing for sturgeon, carp and suckers in all tide-water streams in the State of Pennsylvania, and their tributaries.

Section 1. Be it enacted, &c., That hereafter it shall be lawful to fish for sturgeon in all tide-water streams within the jurisdiction of this State, and their trubtaries, with gill-net or drift-net, the meshes thereof shall not be less than ten inches, except from sunset on Saturday until twelve o'clock on Sunday night, of each and every week: Provided, That no sturgeon under four feet in length shall be taken from the water, killed, had in possession or offered for sale, under a penalty or fine of ten dollars and costs for each and every sturgeon under four feet in length so taken, had in possession, killed, sold or offered for sale.

Section 2. If any person or persons or corporation shall fish for sturgeon in any tide-water stream, or its tributaries, as aforesaid, within the jurisdiction of this State, with gill-net or drift-net between sunset on Saturday until twelve o'clock on Sunday night of each and every week, or with a net the mesh thereof less than ten inches, such person or persons, violating this provision, shall forfeit and pay a fine of one hundred dollars, together with costs of suit, for each and every offense.

Section 3. That from and after the passage of this act, it shall be lawful to fish for suckers and carp in all tide-water streams within the jurisdiction of this State, and their tributaries, except within a quarter of a mile of any dam-breast, from the fifteenth day of August to the fifteenth day of June, of each and every year, with cast-net, gill-net or seine, the meshes thereof shall not be less than two inches from knot to knot, except from sunset on Saturday night until twelve o'clock on Sunday night, of each and every week.

Section 4. If any person, persons or corporation shall violate section three (3) of this act, or any part thereof, such person or persons or corporation, violating the same or any part thereof, shall forfeit and pay a fine of ten dollars ($10.00) for each and every fish so unlawfully caught, together with the forfeiture of nets and other applances to the Fish Commissioners.

Section 5. The provisions of this act shall be enforced in accordance with the provisions of an act, entitled "An act to declare the species of fish which are game fish, et cetera, approved the twenty-

ninth day of May, one thousand nine hundred and one, and the supplements thereto and amendatory thereof.

Section 6. All acts or parts of acts inconsistent herewith are hereby repealed and this act shall take effect immediately.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 26, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 436, entitled "An act to regulate fishing for sturgeon, carp and suckers in all tide-water streams in the State of Pennsylvania, and their tributaries."

This bill would make it lawful to fish for sturgeon in all tide-water streams within the jurisdiction of the State, "with gill-net or drift-net, the meshes thereof shall not be less than ten inches," at any time during the year. In the opinion of the Commissioner of Fisheries such permission would be injurious to the interests of the fisheries as well as to the interests of the Commonwealth, since it would result in the entire destruction of the sturgeon. In his opinion the bill ought to have provided for a closed season during the period when the fish are spawning. A proper regard for the fish interest would appear to indicate that it would be wise to adopt some such legislation.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 77.

AN ACT

To provide for the printing and distribution of an increased number of the periodical bulletins of the Division of Zoology, issued from the Department of Agriculture.

Whereas, The maximum number of twenty-five thousand copies of the periodical bulletins published by the Division of Zoology, and issued from the Department of Agriculture, has proven to be entirely inadequate to meet the requests that are made for the same, therefore:

Section 1. Be it enacted, &c., That the Department of Agriculture be authorized to publish a sufficient number of copies of each of the periodical bulletins of the Division of Zoology. issued from said Department, to meet the demands of the public: Provided, That the number of any one bulletin shall not exceed fifty thousand.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, April 27, 1905.

I file herewith, in the office of the Secretary of the Commonwealth. with my objections, House bill No. 375, entitled "An act to provide for the printing and distribution of an increased number of the periodical bulletins of the Division of Zoology, issued from the Department of Agriculture."

This bill provides that the Department of Agriculture be authorized to publish periodically bulletins of the Division of Zoology, not to exceed fifty thousand in number. The authority to publish such bulletins seems to be sufficiently given to the Secretary of Agriculture by the act of March 13, 1895, and by section ten of the act of February 7, 1905, to the Secretary of Agriculture and the Governor.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 78.

AN ACT

Amending section one of an act, entitled "An act to enable borough councils to establish boards of health," approved the eleventh day of May, Anno Domini one thousand eight hundred ninety-three.

Section 1. Be it enacted, &c., That section one of an act, entitled "An act to enable borough councils to establish boards of health," approved the eleventh day of May, Anno Domini one thousand eight hundred ninety-three, which reads as follows:

"That it shall be the duty of the president of the town council, or burgess where he is the presiding officer, of every borough in this Commonwealth, within six months after the passage of this act, to nominate and, by and with the consent of the council, to appoint a board of health of such borough, to consist of five persons not members of the council; one of whom shall be a reputable physician, of not less than two years standing in the practice of his profession. At the first appointment the president of the town council, or burgess where he is the presiding officer, shall designate one of the members to serve for one year, one to serve for two years, one to serve for three years, one to serve for four years, and one to serve for five years; and thereafter one member of the said board shall be appointed annually, to serve for five years. The board shall be appointed by districts to be fixed by the town council, representing as equally as may be all portions of the borough. The members shall serve without compensation," be and the same is hereby amended to read as follows:

The town council of any borough in this Commonwealth may, by ordinance, create a board of health, which shall consist of five members, who shall serve without compensation, and none of whom shall be members of the council. At least one of their number shall be a reputable physician, of not less than two years standing in the practice of his profession. The chief burgess shall nominate and, by and with the consent of the town council, appoint the members of the said board, and shall, in like manner, remove any and all of them for official misconduct or neglect of duty, and fill all vacancies for the unexpired term. At the first appointment, the said burgess shall designate one of the members to serve for one year, one to serve for two years, one to serve for three years, one to serve for four years, and one to serve for five years; and thereafter, one member of said board shall be appointed annually, to serve for the term

of five years. The board shall be appointed by districts, to be fixed by the town council, representing as nearly as may be all portions of the borough, and shall serve for regular terms of five years from the first Monday of April succeeding their appointment, except those who are appointed for shorter terms upon the first organization of the board.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 1, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 125, entitled "An act amending section one of an act, entitled 'An act to enable borough councils to establish boards of health,' approved the eleventh day of May, Anno Domini one thousand eight hundred ninety-three."

The subject of the proposed amendment is not set forth in the title, as required by Article III, Section 3, of the Constitution.

For this reason the bill is not approved.

SAML. W. PENNYPACKER.

No. 79.

AN ACT

To prohibit the adulteration of milk and cream, and providing the method of procedure for the enforcement thereof.

Section 1. Be it enacted, &c., That the sale or offering for sale of milk or cream, for human consumption, in this Commonwealth, to which has been added formaldehyde, sulphurous acid or sulphites, boric acid or borates, salicylic acid or salicylates, benzoic acid or benzoates, saccharin, dulcin, glucin, beta-naphthol, abrastol, asaprol, fluorides, fluoborates, fluosilicates, or other fluorine compounds, or any other foreign substance or preservatives, shall be a misdemeanor.

Section 2. Any person, and any agent, servant or employe of such person, and any officer, member, agent, servant or employe of any corporation or partnership, who violates any of the provisions of this act shall forfeit and pay not less than sixty dollars nor more than one hundred dollars, with the costs, or undergo an imprisonment not exceeding sixty days, or both, at the discretion of the justice of the peace, alderman or magistrate before whom any prosecution under this act may be brought; and justices of the peace, aldermen and magistrates, throughout the Commonwealth, shall have jurisdiction to hear and determine all prosecutions which may be brought under this act: Provided, however, That either party may appeal to the court of quarter sessions of the county in which the prosecution has been brought, upon the allowance of any judge thereof, upon cause shown.

Section 3. Every person offering or exposing for sale, or delivering to a purchaser, any milk or cream shall furnish to any person interested or demanding the same, who shall apply to him for the purpose and shall tender him the value of the same, a sample of such milk or cream which is in his possession; but the person so purchas-

ing any milk or cream, with the intention of detecting any violation of this act, shall, after the purchase shall have been completed, divide the sample of milk or cream into two equal parts, to be then and there separated, and each part to be marked and sealed, and shall deliver one of the parts to the seller or his agent.

Section 4. It shall be the duty of the Dairy and Food Commissioner to enforce the provisions of this act, for which purpose he shall have the same powers which are given him to enforce the provisions of the act authorizing his appointment.

Section 5. All penalties or fines which may be recovered in any proceeding to enforce the provisions of this act shall be paid to the Dairy and Food Commissioner or his agent, and by him paid into the State Treasury, and the money so paid shall constitute a special fund, for the use of the Dairy and Food Commissioner in enforcing this act and all other acts of Assembly relating to the adulteration and sale of food commodities, and may be drawn out of the State Treasury upon warrants signed by the Dairy and Food Commissioner or the Secretary of Agriculture, and approved by the Auditor General.

Section 6. All acts and parts of acts, general or special, appertaining to the subject matter covered by this act, be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 1, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 280, entitled "An act to prohibit the adulteration of milk and cream, and providing the method of procedure for the enforcement thereof."

This bill provides "that the sale or offering for sale of milk or cream, for human consumption, in this Commonwealth, to which has been added formaldehyde, sulphurous acid or sulphites, boric acid or borates, salicylic acid or salicylates, benzoic acid or benzoates, saccharin, dulcin, glucin, beta-naphthol, abrastol, asaprol, fluorides, fluoborates, fluosilicates or other fluorine compounds or any other foreign substance or preservatives, shall be a misdemeanor." It is a little difficult to understand why the limitation "for human consumption" is made in this provision of the bill. Milk and cream, and especially the latter, are very seldom used for any other purpose. Occasionally the agents of the Dairy and Food Division of the Agricultural Department buy these articles for the purpose of analysis, in order to ascertain whether or not they have been adulterated, and perhaps it might be held that such a purchase was not for human consumption. I am informed that this conclusion was reached in a few decisions in courts in the interior counties of the Commonwealth; but if we are to suppose that the milk or cream is sold for consumption by hogs, or in any other way, why should it contain any of these numerous chemicals which are never found present when it is in the natural condition? The safer and better course would seem to be to prevent their use, no matter how the milk or cream is expected to be consumed. Section three provides that "every person offering or exposing for sale, or delivering to a

purchaser, any milk or cream shall furnish to any person interested or demanding the same, who shall apply to him for the purpose and shall tender him the value of the same, a sample of such milk or cream." There would be practical difficulties in carrying out the directions of this section. The milk or cream which has been bought by the purchase, certainly if it has been delivered, belongs to the purchaser. How could the vendor take a portion of this milk or cream and sell it to some one else who may demand it, even though the latter should tender him the value? If it be said that the sample could be taken from the receptacle in the possession of the vendor, how can it be known that this receptacle contains any more milk? It may have been all sold, or the milk, as often occurs, may be milk which has been sold by the bottle. If it be said that the sample could be taken from some other bottle or receptacle, how could it be told that the sample was a sample of the milk which had been sold? Section five provides, "all penalties or fines which may be recovered in any proceeding to enforce the provisions of this act shall be paid to the Dairy and Food Commissioner, or his agent, and by him paid into the State Treasury, and the moneys so paid shall constitute a special fund for the use of the Dairy and Food Commissioner." Legislation has been passed at the present session requiring the Dairy and Food Commissioner to pay the fines collected by him into the Treasury of the Commonwealth, for the use of the Commonwealth, and providing for the needs of his division by an appropriation. This section would be inconsistent with such legislation, and a continuation of the fee system which it is desirable to avoid.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 80.

AN ACT

To amend the first, twelfth, thirteenth, fourteenth, fifteenth and sixteenth sections of an act, entitled "An act relating to the Public Grounds and Buildings; defining the powers of commissioners; authorizing the Board of Commissioners to carry into effect the provisions of section twelve, article three of the Constitution relative to contracts for stationery, supplies, fuel, furniture, furnishings, distribution of documents, repairs, alterations or improvements, and other matters needed by the Legislature, the several departments, boards and commissions of the State Government and Executive Mansion; authorizing the appointment of a Superintendent, and defining his powers, authority and duties; and providing for the appointment of subordinate officers required by this act, and fixing the compensation of the same," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and ninety-five; further providing for the custody, maintenance and protection of the Public Grounds and Buildings.

Section 1. Be it enacted, &c., That section one of an act, entitled "An act relating to the Public Grounds and Buildings; defining the power of the Commissioners; authorizing the Board of Commissioners to carry into effect the provisions of section twelve, article three of the Constitution relative to contracts for stationery, supplies, fuel, furniture, furnishings, distribution of documents, repairs, alterations or improvements, and other matters needed by

the Legislature, the several departments, boards and commissions of the State Government, and Executive Mansion; authorizing the appointment of a Superintendent, and defining his powers, authority and duties, and providing for the appointment of subordinate officers required by this act, and fixing the compensation of the same," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and ninety-five, which reads as follows:

"Section 1. Be it enacted, &c., That the Governor, Auditor General and State Treasurer shall constitute a Board to be known as the Board of Commissioners of Public Grounds and Buildings, and who shall have entire control and supervision of the public grounds and buildings, including the Executive Mansion, and all repairs, alterations and improvements made and all work done or expenses incurred in and about such grounds or buildings, including the furnishing and refurnishing of the same, and are authorized to enter into contracts for stationery, supplies, furniture, distribution of documents, fuel, repairs, alterations or improvements, and other matters needed by the Legislature, the several departments, boards and commissions of the State Government, and Executive Mansion," be and the same is hereby amended so as to be and read as follows:

Section 1. Be it enacted, &c., That the Governor, Auditor General and State Treasurer shall constitute a Board, to be known as the Board of Commissioners of Public Grounds and Buildings, and who shall have entire control and supervision of the public grounds and buildings, including the Executive Mansion, and all repairs, alterations and improvements made and all work done or expenses incurred in and about such grounds and buildings, including the furnishing and refurnishing of the same, and are authorized to enter into contracts for stationery, furniture, distribution of documents, fuel, repairs, alterations or improvements, and other matters needed by the Legislature, the several departments, boards and commissions of the State Government, and Executive Mansion. The said Board of Commissioners of Public Grounds and Buildings shall appoint a secretary, who shall receive a salary of five hundred dollars per annum.

Section 2. That section twelve of the said act, which now reads as follows:

"Section 12. The Board of Public Grounds and Buildings shall appoint a competent bookkeeper, at a salary of fifteen hundred dollars per annum, and a night watchman, at a salary of nine hundred dollars per annum," be and the same is hereby amended so as to be and read as follows:

Section 12. The Board of Public Grounds and Buildings shall appoint an assistant superintendent, at a salary of eighteen hundred dollars per annum; an experienced and competent bookkeeper, at a salary of fifteen hundred dollars per annum; a night watchman for the store-room and department, at a salary of fifteen hundred dollars per annum; a messenger, at a salary of nine hundred dollars per annum, and an assistant messenger, at a salary of four hundred and eighty dollars per annum.

Section 3. That section thirteen of said act, which now reads as follows:

"Section 13. That the Superintendent so appointed shall have im

mediate charge of the capitol police and all other persons employed by the State directly connected with the care and preservation and improvement of the grounds and buildings and other property belonging to the State and connected with the Capitol. He shall exercise special care in the enforcement of good order, both in the buildings and on the grounds, and shall see that all disorderly persons are excluded from the premises of the State Capitol; and in the discharge of such duties he is hereby empowered, and the capitol police under his control are hereby empowered, to adopt whatever means may be deemed necessary for the protection of the property of the State and the enforcement of good order upon the premises thereof; and in the arrest, detention and disposition of outlaws or disorderly persons said superintendent and his police are hereby given the same powers now or hereafter exercised under the authority of law or ordinance by the police force of the city of Harrisburg," be and the same is hereby amended so as to be and read as follows:

Section 13. That the Superintendent, so appointed, shall have immediate charge of the capitol police and all other persons employed by the State, directly connected with the care, preservation and improvement of the grounds and buildings and other property belonging to the State, connected with the State Capitol. He shall exercise special care in the enforcement of good order, both in the buildings and on the grounds, and shall see that all disorderly persons are excluded from the premises of the State Capitol; and in the discharge of said duties he is hereby empowered, and the capitol police under his control are hereby empowered, to adopt whatever means may be deemed necessary for the protection of the property of the State, and the enforcement of good order upon the premises thereof; and in the arrest, detention and disposition of outlaws or disorderly persons, the said Superintendent and his police are hereby given the same powers now or hereafter exercised, under authority of law or ordinance, by the police force of the city of Harrisburg. They shall also have the power to shoot any dogs or cats wandering at large in the building or upon the grounds connected with the State Capitol, unless the same are in leash or under the complete control of the owner. They shall have authority to arrest those who damage, mutilate or destroy the trees, plants, shrubbery and turf, grass plots, benches, buildings or structures, or commit any other offense within the Capitol grounds and buildings, and carry the offenders before the proper magistrate or magistrates; and should such offenders be found guilty of the offenses charged, they shall be fined by said magistrate, for each separate offense, the sum of ten dollars, and stand committed until the same be paid. They shall have the authority to order off of said grounds and out of said buildings all vagrants, loafers, trespassers and persons under the influence of liquor, and, if necessary, remove them by force, and in case of resistance carry such offenders before a magistrate, as above provided.

Section 4. That section fourteen of said act, which now reads as follows:

"Section 14. That the Capitol police force, which shall consist of six men, to be appointed by the Board of Public Grounds and Buildings, one of whom shall be designated as a sergeant, shall

at all times be subject to the orders of the Superintendent, and disobedience or neglect of duty shall be sufficient cause for the dismissal by the authority through which they shall have been appointed. They shall be subject to such detail or disposition in their employment as may be determined upon by the Superintendent, and when on duty they shall appear in the regular uniform prescribed: Provided, That all uniforms, badges and weapons that may be used as aforesaid shall be furnished by the State, under such restrictions as may be prescribed by the Board of Public Grounds and Buildings. The sergeant shall receive ten hundred dollars per annum, and the other five members nine hundred dollars per annum each, which shall be paid in the same manner as payment is made to other employes of the State government. In addition to the Capitol police, to be appointed as aforesaid, the Board shall appoint one gardener, at a salary of ten hundred dollars per annum; one mechanic, at nine hundred dollars per annum; two elevator men, one for the Capitol and one for the Executive buildings, at nine hundred dollars per annum each," be and the same is hereby amended so as to be and read as follows:

Section 14. That the Capitol police force, which shall consist of a sergeant and twelve policemen, to be appointed by the Board of Public Grounds and Buildings, shall at all times be subject to the orders of the Superintendent, and disobedience or neglect of duty shall be sufficient cause for dismissal by the authority through which they shall have been appointed. They shall be subject to such detail or disposition in their employment as may be determined upon by the Superintendent, and when on duty they shall appear in the regular uniform prescribed: Provided, That all uniforms, badges and weapons that may be used as aforesaid shall be furnished by the State, under such restrictions as may be prescribed by the Board of Public Grounds and Buildings. The sergeant shall receive twelve hundred dollars per annum, and the policement shall receive nine hundred dollars per annum each. The said Board shall also appoint the following employes for the Conservatory: One gardener, at a salary of eleven hundred dollars per annum; one assistant gardener, at a salary of one thousand dollars per annum; one competent day fireman and florist, at a salary of nine hundred dollars per annum; one competent night fireman and watchman, at a salary of nine hundred dollars per annum. The Board shall also appoint a foreman and six caretakers for the grounds. The foreman shall receive a salary of one thousand dollars per annum, and the caretakers shall receive a salary of seven hundred and twenty dollars per annum each. The Board shall appoint one skilled machinist, at a salary of nine hundred dollars per annum; one skilled carpenter, at a salary of twelve hundred dollars per annum; and two elevator men, one for the Capitol and one for the Executive buildings, at nine hundred dollars per annum each.

As soon as any of their services shall be required, consequent upon the furnishing or completion and acceptance of the new Capitol building, and its light, heat and power and other equipments, or any part thereof, the Board of Public Grounds and Buildings shall also appoint the following employes:

For running and maintaining the Capitol building mechanical

plant: One skilled and competent chief engineer, at a salary of twenty-five hundred dollars per annum; one skilled and competent assistant chief engineer, at a salary of two thousand dollars per annum; one competent night engineer, at a salary of eighteen hundred dollars per annum; two assistant engineers, at a salary of one thousand dollars each per annum; six firemen, at a salary of nine hundred dollars per annum each; one skilled electrician, at a salary of fifteen hundred dollars per annum; one assistant electrician, at a salary of ten hundred and twenty dollars per annum; two wiremen, at a salary of nine hundred dollars per annum each; one skilled machinist, at a salary of one thousand dollars per annum; two helpers, at a salary of seven hundred and twenty dollars per annum each; one practical and experienced plumber and steam-fitter, at a salary of one thousand dollars per annum; one plumber and steam-fitter's helper, at a salary of seven hundred and twenty dollars per annum.

For the care, maintenance and preservation of the new Capitol building and furnishings, one skilled cabinet maker, at a salary of twelve hundred dollars per annum; one skilled upholsterer, at a salary of nine hundred dollars per annum; one skilled painter and finisher, at a salary of nine hundred dollars per annum; six expert mechanics, to take care of the marble, bronze, paintings, moravian tile, et cetera, at a salary of nine hundred dollars per annum each; thirty-six guards, at a salary of seven hundred and twenty dollars per annum each; twelve competent elevator men, at a salary of nine hundred dollars per annum each; one mistress of char-women, at a salary of three hundred and sixty dollars per annum; thirty char-women, at a salary of two hundred and forty dollars per annum each; eight char-men, window cleaners and laborers, at a salary of seven hundred and twenty dollars per annum each; two female attendants, at a salary of three hundred and sixty dollars per annum each; two male attendants, at a salary of seven hundred and twenty dollars per annum each.

For the telephone exchange: three competent male telephone operators, at a salary of six hundred dollars per annum each; three competent female telephone operators, at a salary of three hundred and sixty dollars per annum each.

At such time as their, or any of their, services may be required, the Board of Public Grounds and Buildings is hereby authorized and empowered to transiently employ all necessary help required for the care, maintenance and preservation of the Public Grounds and Buildings: Provided, That such help shall be paid out of the usual biannual appropriation for the expenses of keeping the Public Grounds and Buildings in order, and repairing and improving the same.

Section 5. That section fifteen of the said act, which now reads as follows: "Section 15. The Superintendent and police force, before entering upon their duties, shall subscribe to the usual form of oath, before the Secretary of the Commonwealth; and the Superintendent shall give a bond in the sum of twenty-five thousand dollars, with two or more sureties, to be approved by the Governor of the Commonwealth, conditioned for the faithful discharge of the duties hereinbefore prescribed. He shall receive as compensation the sum of

three thousand dollars per annum, payable in the manner now provided for the payment of the salaries of the other State Department officers," be and the same is hereby amended so as to be and read as follows:

Section 15. The Superintendent and the police force, before entering upon the discharge of their duties, shall subscribe to the usual form of oaths, before the Secretary of the Commonwealth; and the Superintendent shall give a bond in the sum of twenty-five thousand dollars, with two or more sureties, to be approved by the Governor of the Commonwealth, conditioned for the faithful discharge of the duties hereinbefore prescribed. He shall receive as compensation the sum of five thousand dollars per annum, payable in the manner now provided for the payment of the salaries of other State Department officers.

Section 6. That section sixteen of said act which now reads as follows:

"Section 16. That for the purpose of making purchase of any article of furniture, furnishings, stationery, supplies, fuel, or any other matter or things, and for the payment of any repairs, alterations or improvements, the want of which may not have been anticipated at the time of the issue of the annual schedule, and which do not appear in the same and for which requisition is made on the Superintendent, the sum of three thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated, which amount shall be known as the board's general fund: Provided, That no expenditure of said amount shall be made by the Superintendent without first receiving authority from the Board so to do: Provided also, That from this fund shall be paid any bills for designs or specifications ordered by the Board," be and the same is hereby amended so as to be and read as follows:

Section 16. That for the purpose of making purchase of any article of furniture, furnishings, stationery, supplies, fuel, or any other matter or things, and for the payment of any repairs, alterations or improvements, the want of which may not have been anticipated at the time of the issue of the annual schedule, and which do not appear in the same and for which requisition has been made on the superintendent, the sum of five thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated, which amount shall be known as the Board's General Fund: Provided, That no expenditure of said amount shall be made by the superintendent without first receiving authority from the Board so to do.

The Board of Public Grounds and Buildings shall, immediately after the passage of this act, appoint a competent architect, whose duties it shall be to prepare plans and specifications, subject to the approval of said Board, for any alterations or improvements that are made to the buildings and grounds owned by the State. The said architect shall superintend all such alterations or improvement, and shall be paid the usual architectural commission for performing such services.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 2, 1905.

I file herewith, in the office of the Secretary of the Common-

wealth, with my objections, Senate bill No. 191, entitled "An act to amend the first, twelfth, thirteenth, fourteenth, fifteenth and sixteenth sections of an act, entitled 'An act relating to the Public Grounds and Buildings, defining the powers of commissioners; authorizing the Board of Commissioners to carry into effect the provisions of section twelve, article three of the Constitution, relative to contracts for stationery, supplies, fuel, furniture, furnishings, distribution of documents, repairs, alterations or improvements, and other matters needed by the Legislature, the several departments, boards and commissions of the State Government and Executive Mansion; authorizing the appointment of a Superintendent, and defining his powers, authority and duties; and providing for the appointment of subordinate officers required by this act, and fixing the compensation of the same,' approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and ninety-five; further providing for the custody, maintenance and protection of the Public Grounds and Buildings."

The effect of this bill, if it became a law, would be to authorize the Board of Public Grounds and Buildings to engage the services of one hundred and thirty-two new employes. The amount of their salaries and compensation, together with the increases of salaries and compensation to persons now employed, would amount to the sum of $216,960.00 for the ensuing two years. There is no doubt that when the new Capitol is completed and furnished there will be necessary a considerable increase in the force of employes, and there will be needed for the heat and power plant and for other purposes some new classes of employes; but the Capitol is not likely to be completed for another year, and until the next session of the Assembly the Board of Public Grounds and Buildings will be able, with their present force, and with the appropriations ordinarily made to them, to take care of the grounds and buildings, and to provide whatever may be wanted. At the next session of the Assembly provision may be made for whatever additional employes are required.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 81.

AN ACT

To regulate the practice of licensing of osteopaths in the State of Pennsylvania, the establishment of a board of osteopathic examiners representing the Pennsylvania Osteopathic Association, and providing for the punishment of persons violating the provisions of this act.

Section 1. Be it enacted, &c., That within thirty days after the passage of this act, the Governor of this State shall appoint a Board, to be known as the State Board of Osteopathic Examiners. Said Board shall consist of five members, each of whom shall be a graduate of a legally authorized and reputable college of osteopathy, and who is eligible for a license under the provisions of this act, and who is not in any manner connected with or financially interested in any osteopathic school or college, and shall have been in practice in the State for at least four years. Each member of said Board shall

serve thereon for a term of three years or until his successor is appointed, except in case of the first Board; on which one member shall serve three years, two for two years, and two for one year, as specified in their appointment. In case of vacancy by death or otherwise, there shall be appointed, in like manner, a person to serve through such unexpired term.

Section 2. Said Board of Osteopathic Examiners shall, as soon as practicable after their appointment, elect a president, secretary, and treasurer (such elections, subsequently, to be held at a meeting on the second Tuesday in February, each year) from among their number, and shall have a common seal; and its president and secretary, for the purposes of this act, shall have power to administer oaths. Said board shall delegate certain of its members to conduct two or more examinations, for the examination of candidates, at the State capital, in each year; and they shall report the same to the Board, as hereinafter provided; due notice of which shall be made public at such times or places as they may determine. A majority of the members of the whole Board shall issue certificates of qualification to all applicants having a diploma from a legalized, reputable recognized and regularly incorporated college of osteopathy, in good standing as such at the time it was issued. Said certificate shall be signed by the president and secretary of said Board, and attested by its seal, and shall be conclusive of the right of the lawful holder thereof to practice osteopathy in the State. Said Board shall keep a record of all its proceedings, also a register of all applicants for license, together with his or her name and age and time spent in the study and practice of osteopathy, and the name and location of the college of osteopathy from which such applicant holds a diploma, and shall keep a register which shall show the names of all applicants licensed or that are rejected under this act. Said record shall be prima facie evidence of all matters recorded therein.

Section 3. It shall be unlawful for any person to practice osteopathy in this State without a license from said Board: Provided, That all persons practicing osteopathy within this State for four years prior to July first, one thousand nine hundred and five, or such persons as now legally hold a diploma from a reputable, legally incorporated and regularly conducted college of osteopathy, and wherein the course of study comprises at least four terms of five months each, and which is recognized as of good standing by the State Board of Osteopathic Examiners, shall be licensed to practice osteopathy in this State by submitting to said Board of Osteopathic Examiners, within ninety days after the passage of this act, evidence satisfactory to said Board of their having practiced osteopathy in this State for four years prior to July first, one thousand nine hundred and five, such a diploma, and satisfying such Board that they are the legal holders thereof, as hereinafter provided, at a regular meeting of said Board for examinations. The fee for such license shall be five dollars, payable to the treasurer of said Board of Examiners when application is made for certificate: Provided, however, That nothing contained in this act shall be construed to affect the right to practice osteopathy on the part of any one who was actively engaged in the practice of the same prior to July first, one thousand nine hundred and four.

Section 4. After July first, one thousand nine hundred and five, all persons commencing the practice of osteopathy, in any of its branches, in this State shall apply to said Board for a license to do so; and such applicant, at the time and place designated by said Board, shall submit to an examination in the following branches, to wit: anatomy, physiology, chemistry, pathology, etiology, obstetrics, gynecology, hygiene, histology, bacteriology, symptomatology, differential diagnosis, minor surgery (including deformities and injuries in general). The questions in these branches, for said examination, to be taken from a like list of questions as are now, or such a list of questions as may hereafter be, required by the Medical Council of the State of Pennsylvania, for applicants of the other schools, for the practice of medicine in the said branches, osteopathic diagnosis, osteopathic therapeutics, and theory and practice of osetopathy; and shall present satisfactory evidence having actually attended, for at least three separate years, a reputable, legally authorized and regularly conducted college of osteopathy, recognized by the State Board of Osteopathic Examiners. Said examinations shall be conducted in writing, in accordance with the rules and regulations prescribed by the State Board of Osteopathic Examiners, and shall embrace the subjects named herein. After each such examination the members of the said State Board delegated to hold examinations shall, without unnecessary delay, act upon the same. An official report of such action, signed by the president, secretary, and each member of said Board of Examiners participating in the examination, stating the examination average of each candidate in each branch, the general average, and the result of the examination, whether successful or unsuccessful, shall be transmitted to the osteopathic Board. Said report shall embrace all the examination papers, questions and answers thereto. All such examination papers shall be kept for reference and public inspection, for a period of not less than five years: Provided, however, That after July first, one thousand nine hundred and seven, all who make application for examination shall present evidence of having attended a regularly conducted and recognized college of osteopathy whose curriculum covers a period of four separate years, and whose matriculation requirement conforms with the following conditions: (a) The diploma or certificate of a literary or scientific college, high school, normal school or academy; (b) a teacher's permanent certificate issued by a county or State superintendent of public schools; (c) the certificate of a legally authorized State examining board: Provided further, That after July first, one thousand nine hundred and ten, each of the said four separate years shall consist of at least eight months. All examination papers shall be examined and their sufficiency passed upon by the members or said Board, whose decision shall be final thereon; and said board shall cause such examination to be scientific, and practical, but of sufficient severity to test the candidate's fitness to practice osteopathy. After examination the Board shall grant a license to such applicants as shall pass the examination to practice osteopathy in the State of Pennsylvania, which license shall be granted by not less than three members of such board, and attested by the seal thereof. For the support and maintenance of said Board the fee for such examination

and license shall be twenty-five dollars, which shall be paid in advance to the treasurer: Provided, That in case of failure of an applicant to pass a satisfactory examination, he will be entitled to a second examination, without charge, at the next succeeding meeting of the board: Provided further, The Board may, in its discretion, dispense with an examination in the case of a graduate of a reputable recognized college of osteopathy, in good standing as such, who wishes to practice in the State, and who holds a certificate issued by this State Board of Osteopathic Examiners or Registration of some other State, or who is a legally registered practitioner of osteopathy of the State from which he removes: Provided, The standards of requirement in such states are in accord with the provisions or qualification of this act: And provided further, Said board shall admit to examinations any applicant from another State, who is in actual practice prior to the passage of this act, and whose qualifications are in accord with the provisions of section three of this act, relating to the licensing of practitioners in this State, prior to the passage of this act.

Section 5. The certificate provided for in section four of this act shall not permit or allow the holder thereof, to prescribe or use drugs in the practice of osteopathy, or to perform major or operative surgery; but shall authorize the practice of osteopathy only as taught and practiced at the reputable colleges of osteopathy which are recognized as of good standing by the State Board of Osteopathic Examiners provided for in this act.

Section 6. The person receiving such license shall have it recorded in the office of the prothonotary of the court of common pleas in the county in which he or she resides, and the record shall be certified thereon. In case the person so licensed shall remove to another county to practice, the holder shall record the license in a like manner in the county into which he or she may remove, and the prothonotary of the court of common pleas in said county shall be entitled to charge and receive the usual fee of one dollar for making such record.

Section 7. Any person who shall practice or attempt to practice osteopathy in treating diseases or any ailment whatsoever of the human body, or who shall use any of the terms or letters "osteopath," "osteopathist," "osteopathy," "doctor of osteopathy," "diplomat in osteopathy," or "D. O.," or any other titles or letters under such circumstances as to induce the belief that the person who uses such terms is engaged in the practice of osteopathy, without having first obtained the license herein provided for, or contrary to the provisions of this act, or who for the purpose of obtaining such license shall falsely represent himself or herself to be the holder of a diploma as herein provided, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period of not more than ninety days, for each offense, or either or both, at the discretion of the court. It shall be the duty of the respective district attorneys to prosecute violaions of this act.

Section 8. Any such certificate may be revoked by said State Board of Osteopathic Examiners upon satisfactory proof of fraud

or misrepresentation in procuring the same, or for any violation of the provisions of the certificate, or any gross immorality by the holder thereof.

Section 9. Out of the funds coming into possession of said Board, each of the members of said Board shall receive, as a compensation, the sum of ten dollars for each day acutally engaged in the duties of their office, together with all legitimate and necessary expenses incurred in attending the meeting of said Board. No part of the compensation or other expenses of said Board shall be paid out of the State Treasury. The fees coming into the treasury of said Board shall be paid out, upon warrant of the president and secretary thereof, in payment of the compensation and expenses of said board in carrying out the provisions of this act. Said Board shall make an annual report of its proceedings to the Governor of the State, for the year ending on the thirty-first day of December preceding the making of said report. Said report shall be filed with the Governor on or before the fifteenth day of January of each year.

Section 10. All laws, rules or regulations now in force in this State, or which shall hereafter be enacted, for the purpose of regulating the reporting of contagious and infectious diseases, deaths or births to the proper authorities, or the issuing of death certificates, and to which the licensed practitioner of medicine is subject, shall apply equally to the licensed practitioner of osteopathy.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 3, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 115, entitled "An act to regulate the practice of and licensing of osteopaths in the State of Pennsylvania, the establishment of a board of osteopathic examiners representing the Pennsylvania Osteopathic Association, and providing for the punishment of persons violating the provisions of this act."

The purpose of this bill is to establish a State Board of Osteopathic Examiners, to consist of five members to be appointed by the Governor. This Board is directed to issue certificates of qualification to practice osteopathy to all applicants having a diploma from a legally recognized and regularly incorporated College of Osteopathy. It further provides that licenses shall be issued to all persons who have practiced osteopathy in the State for four years prior to July 1st, 1905, and to such persons as now legally hold a diploma from a reputable and legally conducted college of osteopathy. It further provides that the applicants after July 1st, 1905, shall have attended for at least three separate years such a college of osteopathy, and shall be examined by the board in certain designated branches, and that those who apply after July 1st, 1907, shall, in like manner, have studied for four separate years, and submit to such examination. Section seven provides that "any person who shall practice or attempt to practice osteopathy in treating diseases * * * without having first obtained the license herein provided for, * * * shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more

than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days for each offense." There is nothing in the bill to indicate what constitutes the science of osteopathy. An effort to solve the query by an examination of the printed literature of the science is not very successful. Dr. A. T. Still, who is the founder of the science and is still living, in his autobiography says: "Who discovered osteopathy? Twenty-four years ago, the 22d day of next June, at ten o'clock, I saw a small light in the horizon of truth. It was put in my hand, as I understand it, by the God of nature. That light bore on its face the inscription: 'This is my medical library, surgery and obstetrics. This is my book with all directions, instructions, doses, sizes, and quantities to be used in all cases of sickness, and birth, the beginning of man; in childhood, youth and declining days,' I am something of what people call 'inspired.' * * * The other classes have different names for it—clairvoyant and clairaudient. Sometimes I was so clairvoyant that I could see my father twenty miles from home: I could see him very plainly cutting a switch for my brother Jim and I, if we hadn't done a good day's work. That is called clairvoyance. Then I could hear him say 'If you don't plow faster I will tan you twice a week.' That is clairaudience." In his Philosophy of Osteopathy he says: "Principles to an Osteopath means a perfect plan and specification to build in form a house, an engine, a man, a world, or anything for an object or purpose. To comprehend this engine of life or man which is so constructed with all conveniences for which it was made, it is necessary to constantly keep the plan and specification before the mind, and in the mind, to such a degree that there is no lack of knowledge of the bearings and uses of all parts." However true this may be, it is too indefinite to give the ordinary layman any very accurate description of the science. Since the bill refers to other schools for the practice of medicine, it is probably a school; and it appears from section five that the holders of certificates are not to prescribe or use drugs or operative surgery. The main reliance would appear to be upon the manipulation of muscles and nerves; but this conclusion is entirely an inference, and may be incorrect. It must be assumed, however, that there is some scientific truth which those interested in osteopathy have discovered, and that it is utilized in the treatment of diseases. The study of medicine and surgery has been conducted for ages, and we have much legislation which is applicable to its conduct. Under the act of May 18, 1893, a Medical Council was established, which issues licenses, after examinations, authorizing the applicants to practice medicine and surgery. If, then, osteopathy represents some truth in the treatment of disease, the knowledge and use of which would be beneficial to the diseased and the injured, with what consistency can these practitioners be prevented from making such use of it? Why should their patients be deprived of such benefit as may result from the discovery? If, however, this bill should become a law, the physician who should practice or attempt to practice what the osteopaths have discovered would be punishable by imprisonment for ninety days. This would be, possibly, a great loss to the community, and, certainly, a great wrong to the physicians. The whole thought of the establishment of schools of medicine is unscientific. All of

those engaged in such a pursuit ought to be seeking to ascertain the truth and to accept it wherever it may be found. The approval of this bill would appear to give the authority of the State to a system of practice in the healing art which excludes the use of medicine and the use of surgery. Why should there be an attempt so to confine the operations of the mind? If both drugs and surgery are useless they may be rejected, but if they should at times be found to be beneficial why should any science for the enforcement of a theory make the effort to exclude their use? Should the bill become a law licenses would be issued by the State Board of Osteopathic Examiners and not by the Medical Council of Pennsylvania, which would be an anomaly in our legislation upon the subject.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 82.

AN ACT

To amend section five of an act, entitled "A supplement to an act, entitled 'An act to provide for the better government of cities of the first class in this Commonwealth,' amending articles two, three, ten and twelve, and providing for a Department of Public Health and Charities, in lieu of the Department of Charities and Correction," approved the eighth day of April, Anno Domini one thousand nine hundred and three, so as to provide for the election of the Director of the Department of Public Health and Charities by the members of the select and common councils of said cities, and providing for his removal.

Section 1. Be it enacted, &c., That section five of said act, which reads as follows:

"III. The President and Directors of the Department of Charities and Correction shall also be appointed by the Mayor, but their term of office shall be five years from the date of their appointment if they shall so long behave themselves well, shall be amended so as to read as follows:

"III. The Director of the Department of Public Health and Charities shall also be appointed by the Mayor, but his term of office shall be four years from the date of his appointment, if he shall so long behave himself well. All acts or parts of acts inconsistent herewith are hereby repealed," shall be amended so as to read as follows:

Section 5. The Director of the Department of Public Health and Charities shall be elected by a vote of a majority of all the members of the select and common councils of said cities, in joint session, for a term of three years, and until his successor shall be elected and qualified, and shall be subject to removal by a vote of a majority of all the members of the select and common councils of said cities, in joint session. This act shall not take effect until the first Monday of April, Anno Domini one thousand nine hundred and seven.

All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 4, 1905.

I file herewith, in the office of the Secretary of the Common-

wealth, with my objections, Senate bill No. 479, entitled "An act to amend section five of an act, entitled "A supplement to an act, entitled 'An act to provide for the better government of cities of the first class in this Commonwealth, amending articles two, three, ten and twelve, and providing for a Department of Public Health and Charities, in lieu of the Department of Charities and Correction,' approved the eighth day of April, Anno Domini one thousand nine hundred and three, so as to provide for the election of the Director of the Department of Public Health and Charities by the members of the select and common councils of said cities, and providing for his removal."

Senate bills Nos. 441, 479 and 480, all relating to the government of cities of the first class, may well be considered together. We are told in Genesis that when Jacob wanted to deceive his father into conferring upon him the blessing which was intended for Esau, he covered his hands and his neck with goatskin. It generally happens in all serious inquiries that it is necessary to look beneath the mere surface indications if we are earnestly desirous to reach a correct conclusion. The act of March the 7th, 1901, "for the government of cities of the second class," in effect annulled the previous charters of those municipalities. It abolished the office of mayor and provided a chief executive to be called the city recorder, and to be temporarily appointed by the Governor. It removed from office the mayor who had been elected by the people. It provided for a concentration of authority in the hands of the city recorder, who was given the power to appoint the heads of five of the principal departments, as well as the members of the sinking fund commission. This act became known even in the decisions of the courts as a "ripper." When the constitutionality of the act was assailed, the Supreme Court decided that the power of the Legislature was unquestionable, and its exercise depended upon legislative discretion. The present bills raise no constitutional query and they are in every respect the exact antitheses of this act. They are so drawn as not to take effect until the first Monday of April, 1907, and, therefore, do not affect any present incumbents. They remove no official from office. They interfere with no one elected by the people. Instead of concentrating power, their effect would be to disseminate it. They provide that certain heads of departments, instead of being appointed by the mayor under existing laws, shall be elected by the members of councils, and in this way give the people much greater control over these heads of departments. The mayor is now elected for a term of four years, and during this period is beyond the reach of the people, except through the process of impeachment. The members of councils are in large part elected each year, and at the end of two years all of the members of common council, and at the end of three years all of the members of select council, may be changed. The provisions that the bills shall not go into effect until the first Monday of April, 1907, is in the nature of a referendum, for the reason that, if these bills should not be approved by the people, disapproval can be expressed in the election of members of the Senate and House, who will have ample time before the date named to have the acts repealed. The principles they invoke are much larger and broader than the affairs of any municipality, and the contest

that has resulted is the manifestation of a struggle which has been waged throughout the existence of all governments, past and present, and is not yet determined. Whether it is more conducive to the welfare of human society, and to the development of good government and its proper administration, to have power concentrated in an individual, and responsibility fixed, or to have it vested in representatives of the people, whose tenure depends upon their carrying out the popular will, is still an open question. The history of most nations, states and municipalities, shows that there has been a continual shifting from one system to the other, as the evils which have resulted from each by long continuance have impressed themselves upon the people. Whether Charlemagne, building up an empire which meant the rehabilitation of Europe, or Abraham Lincoln representing a government of the people and by the people, was the more beneficent in his work, may be open to discussion. Whether Nero, setting fire to Rome for the amusement of an emperor, or Robespierre, cutting off the heads of his enemies in the name of the populace, was the more harmful, is equally uncertain. In France, the efforts of the Bourbons to concentrate power was followed by the Revolution, and that again by the empire of Napoleon. In England, the arbitrary exercise of authority by the Stuarts was followed by the establishment of the Commonwealth under Cromwell, and thereupon succeeded the restoration and the limited monarchy of 1688. So far as we can gather light from the experience of the past, the concentration of power seems to be the more dangerous. There have been few instances of such dissemination of power as to lead to anarchy, and these, like the revolt of the Anabaptists of Munster, and the French Revolution, have been of brief duration, but instances in which all authority has been grasped by individuals to the public disadvantage have been very numerous. Pope sought a solution of the problem by writing:

> "For forms of Government let fools contest,
> That which is best administered is best."

In this country the opposite currents of thought have been in existence, and have alternated in control ever since the adoption of our national constitution. The efforts of Washington, Hamilton and Adams to concentrate executive authority led, in a few years, to the overthrow and destruction of the Federalist party. The Democrats and Jefferson, advocating the other view, then came into power and for fifty years, in the main, had control of the government. For the last forty years the drift has been in the opposite direction; but who can say that we have reached a final solution of the problem? At the present time the tendency in the national government is toward a concentration of power, and in the different state governments the current is running in the direction of entrusting executive authority to the representatives of the people. The most thoughtful observers and those most familiar with the practical difficulties of the subject would probably concede that it would be better for the administration of public affairs in Philadelphia if the power, which is given by existing laws to the mayor, could be, in certain directions at least, lessened. He has, in effect, absolute control over the contracts for all the public works, over an army of police and attendants, and over all the affairs of the

municipality. He, in substance, has the appointment of officials, of greater or lesser importance, estimated to be in number from seven thousand to twelve thousand. If this great authority could be exercised intelligently, and only as a trust for the good of the people, it would undoubtedly be the best system of government; but if, unfortunately, it should fall into corrupt or even incapable hands it would prove to be the very worst. One of the most important principles of all good government is the proper maintenance of the distinction between legislative and executive functions, and one of the gravest dangers to be feared is the absorption through encroachment of the functions of one department by the other. Such encroachment may come from the executive as well as from the legislative branch of government. The authority of the mayor can be exercised in such away as not only to be felt in the legislation of councils, but to dominate them. The seat of the councilman, which he holds for a very brief period, is dependent upon the good will of the mayor, and he can hardly be expected to resist the influence when called upon to legislate. The power of the mayor, should he fail to exercise conscientious self-restraint, may be used also in politics. In this aspect of the matter, the bills are of importance to the whole Commonwealth, for the reason that Philadelphia, with its large delegation in the legislature and in political conventions, has a great influence in determining questions which affect the State. Since the passage of the Bullitt Bill, one mayor of Philadelphia sought to become the President of the United States. Another was selected for the special purpose of overthrowing the then existing political control of the Commonwealth, and the effort very nearly succeeded. Such conditions and such possibilities certainly give rise to proper apprehension. While there is great difference of view as to the propriety of the proposed legislation, undoubtedly many of those most capable of judging correctly are of the opinion that the present system has not proven to be, upon the whole, advantageous to the municipality. The most influential political leader in Philadelphia is of the opinion that it has proven to be harmful. Since he has had long experience, and the opportunity for close observation, his conclusions are, at least, entitled to careful consideration. Many of the most competent lawyers are in accord with this view. It has been announced far and wide over the land, and is believed by many good people, that, under the succeeding mayors, contracts for public work have been awarded to corrupt favorites, that the police have been in league with the keepers of dives and bawdy-houses, and that these improper relations have been supported by those in authority. However much we may disbelieve these charges, and however much we may deprecate their inconsiderate publication, they nevertheless indicate a dissatisfaction, upon the part of those who make them, with existing conditions. Upon this important subject, upon which men may well differ in their conclusions, the Governor is urged to reverse the determination of the Senate and House, in which all of the representatives of Philadelphia, in both Senate and House, participated. The Constitution gives the Governor a power of veto, but it was never intended to be an absolute veto. If he disapproves of a measure it may nevertheless become a law by a vote of two-thirds of the mem-

bers of both Senate and House. It is true that after adjournment of the Assembly he may disapprove of the bills which then remain, but this provision was intended only to prevent the manifest inconvenience of inaction. It was supposed by those who drafted the Constitution that bills would be considered by the Assembly during its session, that few would be left at its close, and for them it would be necessary to make some provision. The effect of leaving the mass of legislation until the closing days of the session gives to the Governor an absolute power of negation which was never intended, and, incidentally, it may be said that at some time great harm will result to the Commonwealth because of this practice. We must not, however, lose sight of the principle that the Governor's veto was expected only to extend to those measures which might not receive a two-thirds vote of the Senate and House. For him to exercise his power arbitrarily with respect to the question raised by these bills, would be indeed to assume an unusual and illogical position. This question is not one of ordinary legislation, but it goes to the very foundations of government, involving all the interests, not only of this municipality, but the principles which affect all civilizations. For the change of the method of government in this municipality much more than two-thirds of each House have voted. If the absolute control of affairs in Philadelphia by an individual were to be preserved, over the almost unanimous vote of the Assembly and of the representatives of Philadelphia to the contrary, by the autocratic exercise of the incidental power of the Governor, it might well be a cause both for uneasiness and for complaint.

Having now reached a decision as to the line of thought which ought to determine the action of the Governor upon the main question, this qualification yet remains to be made. Whatever system of government may be the better, it is certainly true that a radical and sudden change from one plan to another is alway accompanied with disturbances and disadvantages. In my view it would be wiser to lessen the power of the mayor. It would be wiser not to take it away. There is a certain propriety in having the Director of Public Works, who has charge of the contracts for which councils make the appropriations, subject to the control of councils. There is also a certain propriety in having the Director of Safety, who has charge of the police and the maintenance of the peace, appointed by the mayor, who is responsible for good order. Had there been four separate bills, one for each department, this thought could have been enforced, but in the shape they have come to me it is impossible to secure such a result. Nevertheless a modification of the proposed plan it is possible to make, by approving the bill which changes the method of selecting the Directors of the Departments of Public Works and Public Safety, and disapproving the two bills which change the method of selecting the Directors of the Departments of Supplies and of Public Health and Charities. The maintenance of a proper conservatism in the conduct of important affairs is a different proposition from an interference with the determination of a fundamental principal of government by the Legislature. Should further changes in the method of appointing directors prove by experience to be necessary or advantageous, they can be made at some future session.

For these reasons I approve Senate bill No. 441, and disapprove of Senate bills Nos. 479 and 480, the 5th day of May, A. D. 1905.

SAML. W. PENNYPACKER.

No. 83.

AN ACT

To amend section two of "An act entitled a supplement to an act, entitled 'An act to provide for the better government of cities of the first class in this Commonwealth,' approved the first day of June, Anno Domini one thousand eight hundred and eighty-five, regulating the purchase and supply of all articles of personal property required in the conduct of the business of cities of the first class, and creating a Department of Supplies in said cities," approved the fourth day of April, Anno Domini one thousand nine hundred and three, by providing that the Director of the Department of Supplies shall be elected by the members of the select and common councils in said cities, and providing for his removal.

Section 1. Be it enacted, &c., That section two of said supplement to said act, which reads as follows:

"Section 2. That the Mayor shall nominate and, by and with the advice and consent of the select council, appoint the Director of the Department of Supplies," be and the same is hereby amended so as to read as follows:

Section 2. That in cities of the first class in this Commonwealth the Director of the Department of Supplies shall be elected by a vote of the majority of all the members of the select and common councils of said cities, in joint session, for a term of three years, and until his successor shall be elected and qualified, and shall be subject to removal by a vote of a majority of all the members of the select and common councils of said cities, in joint session. This act shall not take effect until the first Monday of April, Anno Domini one thousand nine hundred and seven.

All acts or parts of acts inconsistent herewith are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 4, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 480, entitled "An act to amend section two of 'An act, entitled a supplement to an act, entitled 'An act to provide for the better government of cities of the first class in this Commonwealth,' approved the first day of June, Anno Domini one thousand eight hundred and eighty-five, regulating the purchase and supply of all articles of personal property required in the conduct of the business of cities of the first class, and creating a Department of Supplies in said cities,' approved the fourth day of April, Anno Domini one thousand nine hundred and three, by providing that the Director of the Department of Supplies shall be elected by the members of the select and common councils in said cities, and providing for his removal."

For the reasons which are set forth in the message accompanying Senate bill No. 479, this bill is not approved.

SAML. W. PENNYPACKER.

No. 84.

AN ACT

To license and regulate the keeping of employment agencies, in cities of the first and second class, where fees are charged for procuring help or employment.

Section 1. Be it enacted, &c., That the city commissioners for the cities of the first class, and the county commissioners for cities of the second class, shall, upon petition as hereinafter provided, license persons to establish and keep agencies for the purpose of obtaining and giving information concerning places of employment for the following classes of employes:

Class 1. Coachmen, grooms, hostlers, lumbermen, seamstresses, cooks, scrubwomen, laundresses, chambermaids, maids of all work, domestics, servants, agricultural, sea-faring, mining, railway, and all laborers, not holding professional, technical, clerical, and executive positions, as specified in class two.

Class 2. Accountants, clerks, draughtsmen, typewriters, stenographers, bookkeepers, cashiers, employes in mercantile, business, and theatrical houses, employes in restaurants and hotels, except as provided in class one; porters, night-watchmen, railroad employes; persons in charge of farms, country estates; masons, plumbers, painters, tailors, plasterers, blacksmiths, carpenters, machinists, mechanics, truckmen, teamsters, barbers, bartenders, engineers, firemen, compositors, and all persons engaged in professional, technical, clerical, executive positions, and in fiduciary capacities.

Section 2. The term "person," when used in this act, means and includes any individual, company, association or corporation, or their agents; and the term "employment agency" means and includes the business of keeping an intelligence office, employment bureau, or other agency or office, for procuring or assisting to procure work or employment for persons seeking employment, where a fee or privilege is exacted, charged or received, directly or indirectly, from the applicant for employment or the applicant for help.

The term "fee," as used in this act, means money or a written promise to pay money.

Section 3. No person shall open, keep, or carry on any such employment agency, unless if such person shall procure a license therefor from the city commissioners in cities of the first class, and the county commissioners for cities of the second class. Such license shall be granted upon the payment to said commissioners of a fee of fifty dollars annually, for each class of employment agency, as stated in section one of this act. Such license shall contain the name of the person licensed, the designation of the city, street, and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued, or at any place other than that designated in the license, unless consent is obtained from the commissioners granting such license. No agency shall be located in rooms used for living purposes, or where boarders or lodgers are kept, and such agencies shall be used for no purpose, at any time, other than the furnishing of employment and help. If such agency supplies

both males and females, separate waiting-rooms shall be provided; and if such agency conducts a lodging-house separate and apart from the agency, it must be so stated in the license, and shall be by consent of said commissioners. No such agency shall be located on premises where intoxicating liquors are sold, except in office buildings having cafes and resturants. No such license shall be granted to a person other than of good moral character, and such license shall not be granted until the proposed place of business is inspected and the person making application is investigated by the inspector, as hereinafter provided: Provided, That in no case shall a longer period elapse, between the time of application for said license and a termination of the license, than sixty days. Such licensed agencies shall be open only from six anti meridan and nine post meridan.

Section 4. The said commissioners shall require such person or persons to file, with the application for the license, bond in due form, in the penal sum of one thousand dollars, in cities of the first and second class, in the name of the Commonwealth, for the use of any party plaintiff under the provisions hereof; which said bond shall be conditioned for the faithful observance and performance of all and every of the terms, conditions, provisions, and requirements of this act. If any person shall be aggrieved by the misconduct of any such licensed person, and shall recover judgment against him therefor, such plaintiff may, after the return unsatisfied either in whole or in part of any execution issued on such judgment, exhibit such facts by way of petition, under oath, to any court of common pleas of the county where such judgment shall have been recovered; and the court may, upon being satisfied of the truth of the facts contained in said petition, order and direct that judgment be entered on the bond of such licensed person or persons, for the use of the party plaintiff, in the sum of the judgment or the balance due thereon, with interest and costs; on which said judgment the plaintiff shall have the right of immediate execution.

Section 5. It shall be the duty of every such licensed person to keep a register, prescribed by the said commissioners, in which shall be entered, in the English language, the date of every application for employment, the name and address of the applicant, the amount of the fee received, and the kind of work for which application has been made. Such licensed person shall also enter, in the English language, in a separate register approved by the said commissioners, the name and address of every applicant for help, the date of such application, the kind of help requested, the amount of the fee received, and the rate of the wages agreed upon. For class one, the aforesaid registers of applicants for employment and applicants for help shall be open, during office hours, to inspection by the said commissioners and the inspectors as herein provided. For class two, the aforesaid registers shall be open for inspection only on complaint. No false entries shall be made in any such register. It shall be the duty of every such licensed person, whenever possible, to communicate orally or in writing with at least one of the persons mentioned as references for every applicant for work in private families, and the address of such persons used as reference shall be kept on file in such agency.

Section 6. The rate of fees which such agency intends to charge

must be filed with the said commissioners, and a plain and legible duplicate conspicuously posted in each room of such agency, and no other rates than those specified shall be charged without notifying said commissioners of the proposed change. In case applicants for help or employment, of class one, shall not obtain such in one week through such agency, then such licensed person shall, on demand, repay the full amount of said fee. In case applicants for help or employment, of class two, shall not obtain such, then, upon one month's notice to said agency, the said licensed person shall, on demand, repay the full amount of the fee, allowing for either class a reasonable time to determine the fact of the applicant's failure to obtain help and employment; except when, upon evidence satisfactory to the said commissioners, it appears that the said licensed person has in good faith made an honest attempt to procure help or employment for said applicant; then, from applicants of class one, he will be entitled to retain, of such fee paid, an amount not exceeding fifty cents, and for applicants of class two, one-half of the fee charged. The fee charged applicants for help or employment shall be good for a period of two months, and no additional or other fee shall be charged for any service rendered by such agency during this time. Failure of said applicant for help to notify said licensed person that such help has been obtained, through means other than said agency, shall entitle the said licensed person to retain the said fee. It shall be the duty of such licensed person to give to every applicant for employment or help, from whom a fee shall be received, a receipt, in which shall state the name and address of said applicant, the date and amount of the fee, and the kind of employment or help for which it is paid. Every such receipt shall have printed on the back thereof a copy of this section, in the English language. No fee or other payment shall be accepted of any such licensed person for any other purpose, except as herein provided; and no such licensed person shall divide fees with, or pay commissions to, persons to whom applicants are sent for employment. Every such licensed person shall post in a conspicuous place, in each room of such agency, a plain and legible copy of this act, which shall be printed in languages which persons commonly doing business with such offices can understand, together with the name and address of the person or persons charged with its enforcement.

Section 7. No such licensed person shall instruct or shall induce, or attempt to induce, any employe of class one to leave his employment with a view to obtaining other employment through such agency. Whenever applicants for employment are sent out of the city in which said agency is located, on contraction for labor, each shall be furnished with the name and address of the employer, the nature of the work to be performed, hours of labor (except in households), wages offered, and the terms of transportation, in a language which he is able to understand. A duplicate shall be filed in said agency. Every such licensed person shall give to every applicant for employment sent to places within the city, a card containing the printed name and address of such employment agency, together with the name and address of the person to whom said applicant is sent for employment.

Section 8. No such licensed person shall furnish any female em-

ploye for immoral purposes, or shall send, or cause to be sent, any female employe to enter, as servant or inmate, or for any purposes whatsoever, or place of bad repute, house of ill-fame or assignation house, or to any house or place of amusement kept for immoral purposes, the character of which such licensed person could have ascertained upon reasonable inquiry. No such licensed person shall knowingly permit questionable characters or procurers to frequent such agency.

Section 9. No such licensed person shall publish, or cause to be published, any false, fraudulent or misleading notice or advertisement. All advertisements of such employment agency by means of cards, circulars or signs, and in newspapers and other publications, shall designate it as such employment agency; and all letterheads, receipts and blanks shall contain the name and address of such employment agency. And no such licensed person shall give any false information, or make any false promise, concerning employment to any applicant who shall register for employment or help.

Section 10. The enforcement of this act in the cities of the first and second class shall be entrusted to the aforesaid city and county commissioners; the said commissioners to be authorized and empowered to appoint one or more inspectors who shall have no duties other than the enforcement of this law. Such inspectors shall make at least bimonthly visits to each agency; shall investigate all complaints; and the said commissioners shall see that all the provisions of this act are enforced; and the salary of such inspector or inspectors shall be determined and provided by the councils in the city in which this act is enforced. Complaints against any such licensed person shall be made, orally or in writing, to the said commissioners; and notice of such complaint shall be given, orally or otherwise, to said licensed person; and, from the date of filing said complaint, a hearing shall be had before them within three days. Said commissioners shall keep a record of all such companies and hearings; and shall refuse or revoke any license for any good cause shown; but reasonable opportunity shall be given an applicant or said licensed person to defend himself. Whenever, for any cause, such license is revoked, said commissioners shall not issue another license to said licensed person, or his representative, or to any agency with which he is associated.

Section 12. Any person who shall open or conduct such employment agency, without first procuring said license, shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or either or both, at the discretion of the court; and any violation of the provisions of this act shall constitute a misdemeanor, punishable by fine of not more than five hundred dollars, or imprisonment for not more than one year, or either or both, at the discretion of the court; and the said commissioners shall institute criminal proceedings for its enforcement before any court of competent jurisdiction.

Section 12. All acts or parts of acts relating to employment agencies inconsistent with this act are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 8, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 123, entitled "An act to license and regulate the keeping of employment agencies, in cities of the first and second class, where fees are charged for procuring help or employment."

It is to be regretted that this bill, which has for its object the very worthy purpose of protecting those who are brought into relation with employment agencies, should fail; but it has been prepared with such want of care, and displays so much crudity of thought, that it could not, with safety, be permitted to become a law. One of its provisions is that "The term fee, as used in this act, means money or a written promise to pay money." This is not at all the meaning of the word fee. A fee is a reward paid for services rendered or to be rendered. The word "money" conveys an entirely different sense, and there is much money which is not in any way associated with fees. A written promise to pay money may be a promissory note or an obligation of some kind, which may or may not have been given as a fee. Nor is the word fee used in the bill with the meaning assigned to it. The first use of the word occurs in the sentence "such license shall be granted upon the payment to said commissioners of a fee of fifty dollars annually." No doubt this fee could be as well paid by check as by handing over the money. In section three, it is provided "that in no case shall a longer period elapse between the time of application for said license and a termination of the license than sixty days." It is extremely unlikely that this provision could have been intended, and it is probable that in some way a mistake has been made. With this exception there is no specific direction in the bill as to how long a license is to continue; but, since the $50.00 are to be paid annually, it would be reasonable to infer that the license was also intended to be an annual license. Such a payment, however, would be entirely consistent with the license continuing through a period of years. Section four provides that the person seeking a license shall file "with the application for the license, bond in due form, in the penal sum of one thousand dollars, in cities of the first and second class, in the name of the Commonwealth, for the use of any party plaintiff, under the provisions hereof, which said bond shall be conditioned for the faithful observance and performance of all and every of the terms, conditions, provisions and requirements of this act." The applicant could not give a bond in the name of the Commonwealth. What was intended, probably, is that the applicant should give a bond in his own name, payable to the Commonwealth, for the use of parties plaintiff. Nor ought the condition to be for the faithful performance of all the requirements of the act. Some of the requirements of the act are matters to be performed by the commissioner and by the inspectors. Section six directs that, "in case applicants for help or employment of class one shall not obtain such in one week, through such agency, then such licensed person shall, on demand, repay the full amount of said fee." This requirement would be both unjust and impracticable. The service of the employment agency for which the pay-

ment is made is the use of reasonable diligence in bringing employer and employe together. Securing the employment depends altogether upon the qualifications of the employe and his ability to satisfy the employer, and over these matters the agency has no control. In section seven it is provided, "whenever applicants for employment are sent out of the city in which said agency is located, on contraction for labor, each shall be furnished with the name and address of the employer, the nature of the work to be performed, hours of labor (except in households), wages offered, and the terms of transportation, in a language which he is able to understand." This appears to be an unreasonable provision. It would require a woman of meagre means, who tries to support her family by getting places for household servants, to understand all modern languages, or to have a corps of interpreters. The bill goes even further, since the paper to be furnished must be written in a language which another person understands. How can she be expected to measure the capacity to write and the ability to read and the understanding of that other person? Section ten provides that complaints shall be made before the commissioners, and continues "said commissioners shall keep a record of all such companies and hearings." The word "companies" is probably a mistake for "complaints." Section twelve provides that "any violations of the provisions of 'his' act shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars or imprisonment for not more than one year." To find employment for a servant out of a place, and to do it without a license, is not a crime, and ought not to be so considered, however desirable it may be to put the business under proper regulations.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 85.

AN ACT

Regulating the taking of carp, in the waters of this Commonwealth, by means of gigs or spears, and prohibiting the taking of all other fish by such means, and providing penalties for the violation of this act.

Section 1. Be it enacted, &c., That from and after the passage of this act, it shall be lawful to catch and kill carp, in the public waters of this Commonwealth in which brook and other trout are not established or have been planted by the State, by means of a gig or spear, having a space of not less than one and one-half inches between the prongs, from July first to October thirty-first, inclusive, in each year; and it shall not be lawful to use such gig or spear at any other time of the year, or in any other waters than those described, or for the catching of any species of fish other than carp.

Section 2. Any person or persons who shall take and kill other fish than carp with a gig or spear, or who shall use a gig or spear contrary to, or in times or waters other than as set forth under the provisions of this act shall be liable to a fine of ten dollars, together with the forfeiture of boats, gigs, spears, and all other ap-

pliances used, to the Department of Fisheries, and in addition be deprived of the right to fish with a gig or spear for two years after conviction.

Section 3. All proceedings against any person or persons for any violation of this act, and the disbursement of the fines paid, shall be according to the provisions of existing acts governing fish and fishing in this Commonwealth.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 9, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 307, entitled "An act regulating the taking of carp in the waters of this Commonwealth, by means of gigs or spears, and prohibiting the taking of all other fish by such means, and providing penalties for the violation of this act."

This bill would make it lawful to catch and kill carp in the public waters of the Commonwealth, in which brook and other trout are not established, "by means of a gig or spear having a space of not less than one and one-half inches between the prongs." The information given by the Commissioner of Fisheries is that a gig or spear is one of the most destructive implements which can be used by persons engaged in the sport or business of fishing. Killing fish with gigs or spears is generally done at night, and, therefore, at a time when what is done is less subject to supervision. It is true the bill makes it unlawful to use the gig or spear "for the catching of any species of fish other than carp," but in the darkness of the night, and when the fish is under the water, it may be often difficult to determine to what species the fish belongs, and after it is killed and taken out it is too late to make the determination of that question of much importance.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 86.

AN ACT

Making an appropriation for the purpose of assisting in the remodeling and furnishing of a hospital in the city of Hanover, York county, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of seven thousand five hundred dollars be and the same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the remodeling and furnishing of a suitable building in the city of Hanover, York county, Pennsylvania, for the purpose of a general hospital, and to be opened to all classes without distinction of color or creed, wherein injured railroad and manufacturing employees and other injured persons, as well as delicate and helpless sick people, can receive suitable care and treatment during their suffering and dependent condition.

Provided, That no part of this appropriation shall be paid by the

State Treasurer until the president of the board of trustees of said hospital shall certify, under oath, to the State Treasurer that an amount of money equal to the sum hereby appropriated has been subscribed and paid toward the furnishing and maintenance of the said hospital, or that the said board of trustees has become the owner, in fee simple, of real estate to be used for hospital purposes at least equal in cash value to the amount of the appropriation herein provided for.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 381, entitled "An act making an appropriation for the purpose of assisting in the remodeling and furnishing of a hospital in the city of Hanover, York county, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 87.

AN ACT

Making an appropriation to the House of the Good Shepherd, of the city of Scranton.

Section 1. Be it enacted, &c., That the sum of one thousand five hundred dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the House of the Good Shepherd, for maintenance during the two fiscal years beginning June first, one thousand nine hundred and five.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 451, entitled "An act making an appropriation to the House of the Good Shepherd, of the city of Scranton."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 88.

AN ACT

Making an appropriation to the Home of Widows and Single Women, of Reading.

Section 1. Be it enacted, &c., That the sum of one thousand five

hundred ($1,500) dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Home for Widows and Single Women, of Reading, for the two fiscal years commencing June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 469, entitled "An act making an appropriation to the Home for Widows and Single Women of Reading."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 89.

AN ACT

Making an appropriation to the Christian Home, of the city of York.

Section 1. Be it enacted, &c., That the sum of three thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Christian Home, situated in the city of York, for the two years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 517, entitled "An act making an appropriation to the Christian Home, of the City of York."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 90.

AN ACT

Making an appropriation to Saint Martin's Home for Boys, of Philadelphia, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of six thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to Saint Martin's Home for Boys, of Philadelphia, Pennsylvania, for the two fiscal years beginning

June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 539, entitled "An act making an appropriation to Saint Martin's Home for Boys, of Philadelphia, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 91.

AN ACT

Making an appropriation for the erection of a suitable monument, in the old graveyard in the borough of Carlisle, county of Cumberland, to the memory of Mollie Pitcher, the heroine of Monmouth, and providing for a commission to carry out the provisions of this act.

Section 1. Be it enacted, &c., That the sum of two thousand dollars be and the same is hereby appropriated for the purpose of erecting a suitable monument, at the old graveyard in the borough of Carlisle, county of Cumberland, to the memory of Mollie Pitcher, the heroine of Monmouth, whose grave is in said graveyard; and that the Governor, the Secretary of the Commonwealth, and three commissioners to be appointed by the Governor, be and they are hereby authorized and empowered to take the necessary steps to carry out, as speedily as possible, the provisions of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 549, entitled "An act making an appropriation for the erection of a suitable monument, in the old graveyard in the borough of Carlisle, county of Cumberland, to the memory of Molly Pitcher, the heroine of Monmouth, and providing for a commission to carry out the provisions of this act."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 92.

AN ACT

Making an appropriation to erect a tablet, with the names of the soldiers of the Revolution, the Wars of one thousand eight hundred and twelve, and one thousand eight hundred and forty-six, at Middle Springs, Cumberland county, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of one thousand

($1,000) dollars be and the same is hereby specifically appropriated, for the purpose of erecting a tablet on which shall be subscribed the names of the soldiers who went out from Middle Springs, Cumberland county, Pennsylvania, in the Revolutionary War, and in the Wars of one thousand eight hundred and twelve, and one thousand eight hundred and forty-six; and also to lay off and improve the grounds around the monument erected at Middle Springs, Cumberland county, Pennsylvania; and that the Governor be authorized to appoint three commissioners, empowered to take the necessary steps to carry out, as speedily as possible, the provisions of this act.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 561, entitled "An act making an appropriation to erect a tablet, with the names of the soldiers of the Revolution, the War of One Thousand Eight hundred and Twelve, and One Thousand Eight Hundred and Forty-six, at Middle Springs, Cumberland county, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 93.

AN ACT

Making an appropriation to the Rosalia Foundling Asylum and Maternity Hospital, of Pittsburg.

Section 1. Be it enacted, &c., That the sum of twenty-seven thousand dollars ($27,000), or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Rosalia Foundling Asylum and Maternity Hospital, of Pittsburg, for the two fiscal years beginning June first, one thousand nine hundred and five, for the following purposes, namely:

For the purpose of maintenance, the sum of seven thousand dollars ($7,000), or so much thereof as may be necessary.

For the purpose of assisting in the payment of the moneys due for the erection, equipment and furnishment of the addition, now complete, to said hospital, the sum of twenty thousand dollars, or so much thereof as may be necessary.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 546, entitled "An act making an appropriation to the Rosalia Foundling Asylum and Maternity Hospital, of Pittsburg."

I withhold my approval from this bill, for the reason that it is a duplicate of House bill No. 546, which bill was approved in part on the 11th day of May, 1905.

SAML. W. PENNYPACKER.

No. 94.

AN ACT

Making an appropriation to Saint Vincent's Home, of Philadelphia.

Section 1. Be it enacted, &c., That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to Saint Vincent's Home, located at the corner of Twentieth and Race streets, Philadelphia, for the two fiscal years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 578, entitled "An act making an appropriation to Saint Vincent's Home of Philadelphia."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 95.

AN ACT

Making an appropriation to the Pittsburg Home for Babies.

Section 1. Be it enacted, &c., That the sum of two thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated for the two fiscal years beginning June one, one thousand nine hundred and five, to the Pittsburg Home for Babies, located in Pittsburg, Allegheny county, Pennsylvania, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 581, entitled "An act making an appropriation to the Pittsburg Home for Babies."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 96.

AN ACT

Making an appropriation to the Home of the Good Shepherd, of the county of Allegheny.

Section 1. Be it enacted, &c., That the sum of three thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Home of the Good Shepherd, of the county of Allegheny, for the two fiscal years beginning June first, one thousand nine hundred and five, for the following purposes, namely:

For the purpose of maintenance, the sum of three thousand dollars, or so much thereof as may be necessary.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 586, entitled "An act making an appropriation to the Home of the Good Shepherd, of the county of Allegheny."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 97.

AN ACT

Making an appropriation to Saint John's Orphan Asylum, of Philadelphia.

Section 1. Be it enacted, &c., That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated to Saint John's Orphan Asylum, of Philadelphia, for the two fiscal years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 588, entitled "An act making an appropriation to Saint John's Orphan Asylum, of Philadelphia."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 98.

AN ACT

Making an appropriation to the Mount Sania Hospital, of Philadelphia.

Section 1. Be it enacted, &c., That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Mount Sanai Hospital, located in the city of Philadelphia, for the two fiscal years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 595, entitled "An act making an appropriation to the Mount Sania Hospital, of Philadelphia.

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 99.

AN ACT

To provide for certain improvements to that certain tract of land, known as the Paoli Parade Ground, situate in the borough of Malvern, Chester county, and making an appropriation therefor.

Whereas, Cromwell Pierce and wife, by deed dated December twenty-four, one thousand eight hundred and twenty-two, and recorded in Chester county in miscellaneous deed book number two, page two hundred and forty-one, granted and conveyed to Lieutenant William Darlington and Major Samuel Anderson, commanding officers of the Chester and Delaware Battalions of Volunteers, all that certain tract or piece of land situate in Willistown township, now Malvern borough, in the county of Chester (on which is erected the Paoli monument), containing twenty-two acres and one hundred and ten perches of land, more or less, "in trust, as a place of parade, forever, for the use and benefit of all volunteer corps lawfully organized that have contributed towards the purchase of the same, or that may think proper to assemble thereon;" and

Jehu Griffith and wife, by deed dated September twenty, one thousand eight hundred and thirty-two, and recorded in Chester county in deed book S, seven, volume one hundred and sixty-five, page two hundred and sixty-six, granted and conveyed to Colonel William Harris, Lieutenant Colonel Emmor Elton, John S. Yocum and David Meconkey, majors, being field and commanding officers of the First Regiment of Chester and Delaware County Volunteers, all that certain messuage and lot or piece of land situate in the township of Willistown, aforesaid, now Malvern borough (on which is erected a

part of the Paoli monument), containing ten perches of land, more or less, "in trust, and to their successors in office forever, as a place of parade for the use and benefit of all volunteer corps lawfully organized and may think proper to assemble thereon to perform military duty, et cetera;" and

The said two tracts of land are now called the Paoli Parade Ground, and upon the same are erected two monuments commenorating the massacre, during the Revolutionary War, of American soldiers under command of General Anthony Wayne, by a portion of the British army, on September twenty, one thousand seven hundred and seventy-seven, and commonly known as the Paoli Massacre; and

Whereas, August thirty, one thousand eight hundred and ninety-seven, the Paoli Memorial Association was duly incorporated, under the laws of Pennsylvania, by the court of common pleas of Chester county (as appears by the record thereof in said county, in corporation book number four, page two hundred and thirty-four), for the purposes as set forth in the articles of association: "To hold, improve and preserve the land and improvements thereon, known as the Paoli Parade Ground, and including the monuments now erected thereon, situate in Willistown township (now Malvern borough), Chester county, Pennsylvania, consisting of about twenty-two acres of land, whereon occurred the massacre of American patriots, on September twenty, one thousand seven hundred and seventy-seven, and to maintain the said tract of land as a memorial park, for all time to come;" and

Whereas, Said court upon petition did, on December thirteen, one thousand nine hundred and four, appoint said Paoli Memorial Association trustee of the Paoli Parade Ground and the monuments thereon erected, "to take the place of the trustees named in said deeds of trust, with full power and authority to carry out the uses and purposes for which the said tracts of land were granted, in accordance with the prayer of the petitioner;" and

Whereas, Said tracts of land and monuments have been for many years and are without adequate protection, and the original grants fail of their purpose, and the property is deteriorating by reason of the lack of necessary improvement, and it is desirable to make the said tracts of land a memorial park, and to maintain the same as such:

Section 1. Be it enacted, &c., That said Paoli Memorial Association shall prepare a draft and specifications for the erection of a suitable permanent fence, with stone posts, for said Paoli Parade Ground, and with two suitable gateways; for such grading as may be necessary to properly locate said fence and gateways; for the construction of driveways through said grounds, with proper provision for the disposition of surface drainage; for the preservation of the water-supply thereon, and for the planting of suitable trees and shrubbery; and shall advertise for two weeks in two newspapers, in the county of Chester, for proposals for furnishing materials and doing the work provided for by said draft and specifications; and shall let the contract or contracts therefor to the lowest responsible bidder or bidders.

Section 2. That the cost of said improvements shall not exceed

ten thousand dollars; and the sum of ten thousand dollars, or so much thereof as is necessary, is hereby specifically appropriated therefor; one-half of which sum, thus appropriated, is to become available, and shall be paid to said Paoli Memorial Association, when said draft and specifications, together with the contract or contracts in writing, executed by responsible contractor or contractors, with sufficient sureties, shall be filed in the office of the Auditor General; and the remainder of said sum, thus appropriated, shall be paid to said Association on the affidavit of the president and treasurer of said Association that the work has been completed, in full compliance with the draft and specification on file in the office of the Auditor General.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 612, entitled "An act to provide for certain improvements to that certain tract of land, known as the 'Paoli Parade Ground' situate in the borough of Malvern, Chester county, and making an appropriation therefor."

For the reasons which are set forth in the message accompanying Senate bill No. 255, this bill is not approved.

SAML. W. PENNYPACKER.

No. 100.

AN ACT

Making an appropriation to the Catholic Home, of Philadelphia, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Catholic Home, located at one thousand seven hundred and twenty, in the city of Philadelphia, for the two fiscal years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 618, entitled "An act making an appropriation to the Catholic Home, of Philadelphia, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 101.

AN ACT

Appropriating four thousand dollars, or so much thereof as may be necessary, for the erection of a suitable monument in memory of Major General Arthur Saint Clair, in the borough of Ligonier.

Section 1. Be it enacted, &c., That the sum of four thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of moneys in the Treasury of Pennsylvania not otherwise appropriated, for the purpose of defraying the expenses of erecting a bronze statue of heroic size, modeled after the oil painting by Peale, now in Independence Hall, in Philadelphia, and representing the uniform of a Revolutionary officer; the same to be mounted on a suitable base of granite, to be located in the center of the public square in the borough of Ligonier, Westmoreland county, Pennsylvania, near the place where the said Major General Arthur Saint Clair resided for the greater part of his life, when not away from home in the performance of public duties.

Section 2. The said moneys shall be paid upon the completion of the said monument, upon a warrant drawn by three commissioners, who shall be appointed by the Governor of Pennsylvania, and whose duty it shall be to erect the said monument, and who shall perform such services without remuneration.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 662, entitled "An act appropriating four thousand dollars, or so much thereof as may be necessary, for the erection of a suitable monument in memory of Major General Arthur Saint Clair, in the Borough of Ligonier."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 102.

AN ACT

Making an appropriation to the Grand View Institution, of Oil City, Venango county.

Section 1. Be it enacted, &c., That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Grand View Institution, of Oil City, Venango county, for the two fiscal years beginning June first, one thousand nine hundred and five, for the care and treatment of poor consumptives.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 666, entitled "An act making an appropriation to the Grand View Institution, of Oil City, Venango county."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 103.

AN ACT

Making an appropriation to the Suburban General Hospital, located at Bellevue, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of fifteen thousand dollars ($15,000), or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Suburban General Hospital, Bellevue, for the two fiscal years beginning June first, one thousand nine hundred and five, for the following purposes:

For maintenance, the sum of ten thousand dollars ($10,000), or so much thereof as may be necessary; and the sum of five thousand dollars ($5,000), or so much thereof as may be necessary, for the erection and construction of an addition to the building, to be used as an additional ward.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 668, entitled "An act making an appropriation to the Suburban General Hospital, located at Bellevue, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 104.

AN ACT

Making an appropriation to the McKees Rocks General Hospital.

Section 1. Be it enacted, &c., That the sum of two thousand five hundred ($2,500.00) dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the McKees

Rocks General Hospital, located in Stowe township, in the county of Allegheny, Pennsylvania, for the purpose of maintenance, for the two fiscal years beginning June first, one thousand nine hundred and five: Provided, That the trustees of the said hospital corporation surrender their present charter, and accept a new charter under corporations of the first class, as provided for in the act of April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and its supplements.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 671, entitled "An act making an appropriation to the McKees Rocks General Hospital."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 105.

AN ACT

Making an appropriation to the Miners' Hospital of Northern Cambria, in the borough of Spangler, in the county of Cambria.

Section 1. Be it enacted, &c., That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Miners' Hospital of Northern Cambria, in the borough of Spangler, in the county of Cambria, for the purpose of assisting in the equipment, furnishing and maintaining of a hospital for the care and treatment of injured or sick miners, and other injured or sick persons.

Provided, That no part of this appropriation shall be paid by the State Treasurer until a hospital association shall have been regularly chartered under the laws of this Commonwealth, nor until the managers of said hospital association shall have certified, under oath, to the Auditor General that the sum of at least five thousand dollars has been subscribed and paid in cash, or its equivalent used in the erection and furnishing of the said hospital building: And provided, That no part of this appropriation shall be paid by the State Treasurer until there has been filed by the managers of said hospital association, with the Auditor General, plans and specifications of said building, approved by the State Board of Charities, and of all the equipment and furniture therefor, together with evidence that the said building has been completed in accordance with the plans and specifications, and that the same has been properly furnished with the necessary equipment and furniture required for such an institution, and that the title to the land on which the said hospital building is erected is vested in said corporation; and the final payment of said appropriation shall be withheld until the Auditor

General shall be satisfied, by the personal inspection by officials of his Department, that the terms of this act have been fully complied with and the said building has been completed, and the sum of eight thousand dollars had been expended in securing the title to said land, the completion of said building, and the equipping and furnishing of same for use, for the purposes herein set forth.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 699, entitled "An act making an appropriation to the Miners' Hospital of Northern Cambria, in the borough of Spangler, in the county of Cambria."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 106.

AN ACT

Making an appropriation to the West Philadelphia General Homeopathic Hospital and Dispensary.

Section 1. Be it enacted, &c., That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the West Philadelphia General Homeopathic Hospital and Dispensary, located in the city of Philadelphia, for the two fiscal years beginning June first, Anno Domini one thousand nine hundred and five, for the following purposes, namely:

For the purpose of maintenance, five thousand dollars, or so much thereof as may be necessary.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 705, entitled "An act making an appropriation to the West Philadelphia General Homeopathic Hospital and Dispensary."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 107.

AN ACT

Making an appropriation to the Pennsylvania Sanitorium and Benevolent Association, of the city of Philadelphia.

Section 1. Be it enacted, &c., That the sum of five thousand dol-

lars be and the same is hereby appropriated to the Pennsylvania Sanitorium and Benevolent Association, in the city of Philadelphia, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 708, entitled "An act making an appropriation to the Pennsylvania Sanitorium and Benevolent Association, of the City of Philadelphia."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 108.

AN ACT

Making an appropriation to the Pittsburg and Allegheny Rescue Band, at Pittsburg, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of two thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Pittsburg and Allegheny Rescue Band, in Pittsburg, for the two fiscal years beginning June first, one thousand nine hundred five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 732, entitled "An act making an appropriation to the Pittsburg and Allegheny Rescue Band, at Pittsburg, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 109.

AN ACT

Making an appropriation to the Bucks County Historical Society.

Whereas, The Bucks County Historical Society has a corporate existence, and has by volunteer contributions collected a large amount of historical data, and a large number of implements illus-

trating the progress of our civilization, many of which are of great value, and have erected a building in which to care for and preserve the same, and have them upon exhibition for the benefit of the public, therefore:

Section 1. Be it enacted, &c., That the sum of one thousand dollars, or so much thereof as may be necessary, be and the same is hereby especially appropriated to the Board of Trustees of the Bucks County Historical Society, for the two years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 754, entitled "An act making an appropriation to the Bucks County Historical Society."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 110.

AN ACT

Making an appropriation to the Association of the Directors of the Poor and Charities, of the State of Pennsylvania.

Whereas, The Association of the Directors of the Poor and Charities, of the State of Pennsylvania, is an organization having for its object the improvement of the various systems and methods of caring for the dependent classes and supporting of the wards of the State; therefore:

Section 1. Be it enacted, &c., That the sum of two thousand dollars, or so much as may be necessary, be and the same is hereby specifically appropriated to the Association of the Directors of the Poor and Charities, of Pennsylvania, for the two fiscal years beginning June first, one thousand nine hundred and five, for the following purposes, namely:

To assist in paying the necessary expenses of said Association: such as printing the proceedings of its annual conventions, programs, circulars, petitions, and other necessary information; postage and express charges; and the traveling expenses of experts and other experienced colaborers, not members, who are invited to attend and address the Association at its annual convention; and expenses of delegates to the national convention, representing the State as well as this Association: Provided, however, That no part of said appropriation shall be expended to pay the salary and expenses of any officer or member of said Association, except the secretary, and that not to exceed one hundred dollars.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 769, entitled "An act making an appropriation to the association of the Directors of the Poor and Charities of the State of Pennsylvania. Whereas the Association of the Directors of the Poor and Charities, of the State of Pennsylvania, is an organization having for its object the improvement of the various systems and methods of caring for the dependent classes and supporting of the wards of the State, therefore."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 111.

AN ACT

To provide for the current expenses of the State Board of Health, for the two fiscal years commencing the first day of June, one thousand nine hundred and five.

Section 1. Be it enacted, &c., That the following sums, or so much thereof as may be necessary, be and the same are hereby specifically appropriated to defray the expenses of the State Board of Health and Vital Statistics, for the two fiscal years commencing the first day of June, one thousand nine hundred and five:

For the payment of the salary of the secretary and executive officer, for the two years, the sum of seven thousand dollars, or so much thereof as may be necessary.

For the employment of necessary clerical aid in the office of the Board, postage, telegrams, express charges, rents, incidental office expenses, traveling and other necessary expenses of the members and secretary of the Board, while engaged in actual duties of the Board, the sum of eight thousand dollars, or so much thereof as may be necessary.

For sanitary inspections, the sum of four thousand dollars, or so much thereof as may be necessary.

For the protection of water supplies, the sum of six thousand dollars, or so much thereof as may be necessary.

For the establishment and maintenance of a laboratory of hygiene, eight thousand dollars, or so much thereof as may be necessary.

For scientific and laboratory investigations and analyses, the sum of five thousand dollars, or so much thereof as may be necessary.

For the suppression of communicable diseases, under ordinary conditions, the sum of two thousand dollars, or so much thereof as may be necessary.

Said appropriation to be paid upon the warrant of the Auditor General, on settlement made by him and the State Treasurer, upon specifically itemized vouchers certified to by the president and secretary of said Board, and all moneys appropriated under this act re-

maining unexpended at the close of the two fiscal years shall revert to the State Treasury.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 116, entitled "An act to provide for the current expenses of the State Board of Health, for the two fiscal years commencing the first day of June, one thousand nine hundred and five."

I withhold my approval from this bill, for the reason that the act, approved the 27th day of April, A. D. 1905, creating a Department of Health, provides that upon the appointment and qualification of the Commissioner of Health, the terms of the members of the State Board of Health and the secretary of such Board shall expire, and no appointments shall thereafter be made to those offices.

SAML. W. PENNYPACKER.

No. 112.

AN ACT

Making an appropriation to the Pennsylvania Training School for Feeble-Minded Children, at Elwyn, Delaware county, Pennsylvania.

Whereas, The expense for the maintenance and support of a large number of feeble-minded children, kept at the Pennsylvania Training School for Feeble-Minded Children, at Elwyn, Delaware county, Pennsylvania, largely exceeded the amount appropriated by the State of Pennsylvania, for the years one thousand eight hundred and ninety-nine, one thousand nine hundred, one thousand nine hundred and one, and one thousand nine hundred and two, and it being prejudicial to the community and the distressed parents and guardians to turn adrift, during the aforesaid years, a number of feeble-minded children whom the State intended to provide for, and the amount of the appropriation being insufficient to maintain the said large increased number of Pennsylvania State feeble-minded children, the directors of the Pennsylvania Training School for Feeble-Minded Children have been obliged to borrow money, and still owe the sum total of thirty-six thousand eight hundred and seventy-four dollars and ten cents, for the purpose of maintenance and support of the aforesaid large number of State children, therefore:

Section 1. Be it enacted, &c., That the sum of thirty-six thousand eight hundred and seventy-four dollars and ten cents, or as much thereof as may be necessary, be and the same is hereby specifically appropriated to the Pennsylvania Training School for Feeble-Minded Children, at Elwyn, Delaware county, Pennsylvania, for the purpose of defraying the indebtedness of the State of Pennsylvania, incurred over and above the appropriation for said years, for the maintenance and support of the children belonging on the Pennsylvania

State list for the Eastern District of the State, for the years one thousand eight hundred and ninety-nine, one thousand nine hundred, one thousand nine hundred and one, and one thousand nine hundred and two, the aforesaid amount arising entirely from want of sufficient appropriations by the State of Pennsylvania.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 119, entitled "An act making an appropriation to the Pennsylvania Training School for Feeble-Minded Children, at Elwyn, Delaware county, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 113.

AN ACT

To establish an emergency fund, to be used, as occasion may require, in the suppression of epidemics, the prevention of disease, and protection of human life in times of epidemic disease or of disaster threatening disease, and making an appropriation therefor.

Section 1. Be it enacted, &c., That the sum of seventy-five thousand dollars be and the same is hereby specifically appropriated and set apart, out of any money in the treasury not otherwise appropriated, for the purpose of creating an emergency fund, to be used, as occasion may require, by the State Board of Health in the suppression of epidemics, prevention of disease, and protection of human life in times of epidemic disease or of disaster threatening disease, beyond the ability of the local authorities to check or relieve. The money herein appropriated shall be held in the Treasury of the Commonwealth, and whenever the Secretary of the State Board of Health shall find that the public health is threatened, either by epidemic or as a result of great disaster, to such an extent that the local authorities are unable to meet the emergency, he shall prepare a statement to that effect, rehearsing all the facts in the case, and the reason for considering that State aid is needed, and to what amount, and transmit the same to the Governor. If the statement and the reasons therein set forth shall meet with the approval of the Governor, he shall so certify, and file the statement and certificate of approval in the office of the Auditor General, who shall then draw his warrant upon the State Treasurer for the amount approved by the Governor, and place the same in the hands of the treasurer of the State Board of Health, to be used for the purpose set forth in the statement approved as aforesaid, and for no other purpose. If, after the said epidemic shall have been suppressed, or the sickness or danger averted, there shall still be a balance of the amount drawn left in the hands of the treasurer

of the State Board of Health, he shall, without delay, return the same to the State Treasurer, and it shall become a part of the said emergency fund. He shall also file with the Auditor General a specifically itemized statement, made under oath, of the expenditures of said moneys, as soon as possible.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 125, entitled "An act to establish an emergency fund, to be used, as occasion may require, in the suppression of epidemics, the prevention of disease, and protection of human life in times of epidemic disease or of disaster threatening disease, and making an appropriation therefor."

I withhold my approval from this bill, for the reason that the act, approved the 27th day of April, A. D. 1905, creating a Department of Health, provides that, upon the appointment and qualification of the Commissioner of Health, the terms of the members of the State Board of Health and the secretary of such Board shall expire, and no appointments shall thereafter be made to those offices.

SAML. W. PENNYPACKER.

No. 114.

AN ACT

Making an appropriation for the Bedford county Hospital Association.

Section 1. Be it enacted, &c., That the following sums, or so much thereof as may be necessary, be and the same are hereby specifically appropriated to the Bedford County Hospital Association, located at Bedford, Pennsylvania, for the two fiscal years beginning June first, one thousand nine hundred and five, for the following purposes, namely: for the purpose of maintenance, the sum of five thousand dollars.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 247, entitled "An act making an appropriation for the Bedford County Hospital Association."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 115.

AN ACT

Making an appropriation to the Sanitarium Association, of Philadelphia.

Section 1. Be it enacted, &c., That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Sanitarium Association of Philadelphia, for the two fiscal years beginning June first, one thousand nine hundred and five.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 282, entitled "An act making an appropriation to the Sanitarium Association of Philadelphia."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 116.

AN ACT

Making an appropriation for the erection of a suitable monument on Lincoln Park, in the borough of Milton, Northumberland county, to the memory of ex-Governor James Pollock.

Section 1. Be it enacted, &c., That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, for the purpose of erecting a suitable monument on Lincoln Park, in the borough of Milton, Northumberland county, Pennsylvania, to the memory of James Pollock, who served as Governor of this Commonwealth from January sixteen, eighteen hundred and fifty-five, to January nineteenth, eighteen hundred and fifty-eight; and that the Governor, and two persons to be appointed by him, be and they are hereby authorized to take the necessary steps to carry out, as speedily as possible, the erection of said monument.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 284, entitled "An act making an appropriation for the erection of a suitable monument on Lincoln Park, in the Borough of Milton, Northumberland county, to the memory of ex-Governor James Pollock."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 117.

AN ACT

Creating the Department of State Charitable Institutions; providing for the appointment of a Commissioner, who shall be the head thereof, defining his duties, fixing his compensation, designating the number and salaries of his assistants, and making an appropriation therefor.

Section 1. Be it enacted, &c., That there is hereby established a separate and distinct Department, to be known as the Department of State Charitable Institutions, the Commissioner of which said Department shall have a supervision of all the charitable institutions, entirely or partially supported or maintained by State appropriations, as to buildings, property, and financial affairs of all kinds.

Section 2. The chief officer of the Department of State Charitable Institutions shall be denominated the Commissioner of State Charitable Institutions. He shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold his office for four years, and until his successor shall be duly qualified, and he shall receive an annual salary of six thousand dollars ($6,000), payable quarterly by a warrant drawn by the Auditor General upon the State Treasurer. He shall appoint one deputy, who shall perform the duties attached by law to the office of Commissioner of State Charitable Institutions, during the absence or inability of the Commissioner, and such other duties as may be assigned him, whose salary shall be twenty-five hundred dollars ($2,500) per annum, payable in the same manner as that of the Commissioner, and shall give to the Commonwealth a bond in the penalty of ten thousand dollars ($10,000), with one or more sureties to be approved by the Governor, conditioned for the proper and faithful performance of his duties. The Commissioner shall also appoint three clerks, one of whom shall be a trained stenographer, at an annual salary of fourteen hundred dollars ($1,400.00) each, who shall discharge such duties as he shall assign them, and whose salary shall be paid monthly, by warrant drawn by the Auditor General upon the State Treasurer. He shall also appoint one messenger, who shall receive a salary of nine hundred dollars ($900.00) per annum, to be paid in the same manner as the salaries of the clerks. The Commissioner of State Charitable Institutions may also, from time to time, appoint examiners, in such number as may be necessary for the proper conduct of the business of the Department, not to exceed six in number, who shall receive, when actually employed in making examinations of the affairs of the various charitable institutions of the State, under the order of the said commissioner, not to exceed eight dollars ($8.00) per day, and also actual expenses incurred in making such examinations; which compensations and expenses shall be paid by warrant drawn by the Auditor General upon the State Treasurer. Within fifteen days from the time of the notice of their appointment, the Commissioner and his deputy shall take and subscribe the oath of office prescribed by the Constitution, and file the same in the office of the Secretary of the Commonwealth; and the Commissioner shall also give to the Commonwealth a bond in the penalty of twenty thousand dollars ($20,000.00), with two or more sureties to be approved by the Governor, and conditioned for the faithful performance of his duties.

Section 3. The Department shall be provided, by the proper authorities, with suitably furnished offices at the State Capitol.

Section 4. It shall be the duty of the said Commissioner of Charitable Institutions to visit each of the said charitable institutions, receiving State aid, at least twice in every calendar year, and to examine into the condition of all buildings, grounds and other property connected with any such institution, and to all matters relating to its financial management; and for such purpose he shall have free access to the grounds, buildings, and all books, papers, property and supplies, of any such institution; and all persons connected with any such institution shall give such information, and afford such facilities for such examination or inquiry, as the Commissioner may require. The examiners appointed by him shall have the same powers of investigation and right of access in all of the State institutions under the control of the Department.

Section 5. It shall also be the duty of the Commissioner to make a biennial report to the Legislature, of all matters connected with the Department for the two years ending November thirtieth last preceding, with such facts in regard to the condition of the buildings, grounds and property and the financial management of the State charitable institutions as he may deem necessary for the information of the Legislature, including estimates of the amount of money required for the improvement and maintenance of such institutions, and the reasons therefor. He shall also, on the first days of January and July in each year, report to the Governor the condition of the buildings, grounds and property of each of such institutions on such dates, together with such suggestions in regard to the financial management of such institutions as he deems proper. He shall also, on request of the Governor or of the appropriation committee of either House of the Legislature, make a special report in relation to the condition of the buildings, grounds property, or the financial management, of such institutions, or of any of them.

Section 6. The superintendent and trustees of each of the State Charitable institutions, entirely or partially supported by State aid, shall, on or before the fifteenth day of May, August, November and February, if so directed by the Commissioner, cause to be prepared estimates, in triplicate, giving in minute detail all the expenses required for the institution for the ensuing three months, to be paid for out of moneys appropriated by the State; two of such triplicate estimates shall be sent to the Commissioner, and the other retained on file in the office of the institution. The Commissioner may cause such estimates to be revised, either as to quantity or quality of supplies, and the estimated cost thereof, and shall certify that he has carefully examined the same, and that the articles contained in such estimate, so approved or revised by him, are actually required for the use of the institution; and shall, thereupon, present such estimate and certificate to the Auditor General. Whereupon the Auditor General shall authorize the board of managers or trustees or other managing officers of such institutions to make drafts on him, as the money may be required for the purposes mentioned in such estimates, and such drafts shall be paid, on the warrant of the Auditor General, out of the funds in the State Treasury appropriated for the support of such institution. In every such

estimate there shall be a sum named, not to exceed five per centum of the amount drawn from the State during the preceding quarter, as a contingent fund, for which no minute detailed statement need be made. No expenditures shall be made from such contingent fund except in case of actual emergency, requiring immediate action, and which cannot be averted without loss or danger to the institution or the inmates thereof. The treasurer of such institution shall not pay accounts for goods furnished, and salaries of officers or employes, out of any moneys appropriated by the State, without the certificate of the Superintendent of such institution, and the approval of the Commissioner. Nor shall the treasurer of any such institution pay acounts for supplies furnished to officers or employes, out of such moneys, except on the certificate of the superintendent that the same are drawn from the ordinary supplies provided for the general use of the institution. No person other than patients, officers or employes of such institutions, and the families of the superintendent, medical officers or stewards, necessarily residing therein, shall be allowed rooms or maintenance in such institutions, except at a rate to be fixed by the Auditor General and the Commissioner, with the approval of the Governor.

Section 7. The treasurer of each charitable institution receiving State aid shall, on or before the fifteenth day of June, September, December and March, make to the Commissioner a full and perfect statement of all the receipts and expenditures of State moneys used, specifying the several items for the last preceding quarter, and such statement shall be verified by the affidavit of the treasurer, attached thereto, in the following form:

I ..... treasurer of the ..... do solemnly swear that I have deposited in the bank all the moneys appropriated by the State, and received by me on acount of such ..... during the last quarter, and I do further swear that the foregoing is a true abstract of all such moneys received and expenses incurred by me, or under my direction, as such treasurer, during the quarter ending on the ..... day of ....., 19....

Section 8. There shall be attached to such treasurer's statement, of State moneys so received and expended, the affidavit of the superintendent, steward, or other officer having like powers, to the effect that the goods and other articles therein specified were purchased and received by him, or under his direction, at the institution; that the goods were purchased at a fair cash market price, and paid for; and that he, or any person in his behalf, had no pecuniary or other interest in the articles purchased; that he received no pecuniary or other benefit therefrom, in the way of commission, percentage, deductions or presents, or in any other manner, directly or indirectly. He shall state the name or names of the person or persons, or firm or corporation, from whom said articles were purchased, and that the articles contained in such bill were received at the institution; that they conform in all respects to the invoice of goods received and ordered by him, both in quantity and quality. Such statement shall be accompanied by a voucher showing the payment of the several items contained in the statement, the amount of such payments, and for what the payments were made. Such vouchers shall be examined by the Commissioner and, if found correct, shall be endorsed

and forwarded by the Commissioner, with the statement, to the Auditor General, who shall have the power of final audit. If any voucher is found objectionable, for any cause whatever, the Commissioner or the Auditor General shall endorse his disapproval thereon, with his reasons therefor, and return it to the treasurer of such institution, who shall present it to the board of managers or trustees for correction, and immediately return it. If it is then in correct form, and satisfactory to the Commissioner and the Auditor General, it shall be filed. In the event that it is still unsatisfactory, to either the Commissioner or the Auditor General, the amount thereof shall be disallowed. All vouchers and statements shall be filed in the office of the Auditor General.

Section 9. All purchases for the use of the State charitable institutions receiving State aid, and paid for with moneys appropriated by the State, shall be made for cash, and not on credit or time. Every voucher shall be duly filled up at the time it is taken; and with every abstract of vouchers paid there shall be proof, on oath, that the voucher was filled up and the money paid at the time it was taken. The board of managers or trustees shall make all needful rules and regulations to enforce the provisions of this section. The Commissioner, his deputy, any manager or officer, trustee or employee, of any such institution, shall not be interested, directly or indirectly, in the furnishing of any materials, labor or supplies for the use of any such institution; nor shall any manager or trustee act as attorney or counsel for the board of managers or trustees thereof. The Commissioner may arrange with the board of managers or trustees of any institution under his control, for the purchase, by contract, of such staple articles or supplies as may be found feasible to purchase for the use of such institution, or any of them. Such contracts shall be let only after advertisement has been made by the trustees, in accordance with the directions and subject to the approval of the Commissioner. The contracts shall be let to the lowest bidder, and executed by the president of the board of managers or trustees, subject to the approval of the Commissioner. Every bidder shall be required to file with the Commissioner a certified check, in the sum of five hundred dollars (500) as a guaranty of good faith and his willingness to execute the contract if it should be awarded to him. In the event of the successful bidder failing to qualify, in accordance with the provisions of this section, the amount of this check shall be forfeited to the Commonwealth, and the contract shall be awarded to the next highest bidder. The successful bidder shall give a bond to the Commonwealth, in a sum to be approved by the Attorney General, for the faithful performance of his contract. Each of such institutions may manufacture such supplies and materials, to be used in the institution, as can be economically and properly made therein, with the approval of the Commissioner. When requested by the Commissioner, the superintendents, managers or trustees of such institutions, or any of them, shall meet at the office of the Commissioner, at Harrisburg, for the purpose of considering the feasibility of joint contracts.

Section 10. The Governor, Auditor General, and Commissioner of State Charitable Institutions, or a majority of such officers shall approve or reject all plans and specifications for any new buildings,

or for any unusual repairs or improvements for any State charitable institution, out of State moneys appropriated therefor, and no such building shall be erected, or such repairs or improvements made, until the plans and specifications therefor have been so approved. The contracts for such erection, repairs or improvements may be let by the board of managers or trustees to the lowest responsible bidder, after thirty days advertisement in two newspapers of general circulation in the county wherein said institution is located; but such contracts must be approved by the Governor, Auditor General, and the Commissioner, or a majority of them; and, subject to such approval, such contracts may be sublet. A certified check, drawn upon some legally incorporated bank or trust company of this State, shall, in all cases, be required as an evidence of good faith, upon all proposals for buildings, repairs or improvements, to be deposited with the Commissioner, and in an amount to be determined by him. All contracts for the erection, repairs or improvements to said charitable institutions shall contain a clause that the contract shall be deemed executory only to the extent of the moneys available, and no liabilities shall be incurred by the State beyond the moneys available for the purpose.

Section 11. The board of managers or trustees of each of the State charitable institutions receiving State aid, in addition to their other duties now required by law, shall visit and inspect the institution, for which it is appointed, at least monthly, and shall make a written report, in duplicate, to the Governor and the Commissioner, within ten days of each such visitation, to be signed by each member making such visitation. Such report shall state, in detail, the financial condition of the institution visited, and such other matters appertaining to the management and affairs thereof as, in the opinion of the board, should be brought to the attention of the Governor or the Commissioners, and may contain recommendations as to needed improvements or changes in the institution or its management.

Section 12. No money shall be paid on any contract for repairs, improvements or new buildings for any State charitable institution receiving State aid, until the voucher for the same shall be approved by the board of managers or trustees, and forwarded to the Commissioner, who shall, if he approve the same, endorse his approval thereon, and present the same to the Auditor General for his approval. If the account be approved, the Auditor General shall draw his warrant to the order of the contractor, who shall be paid by the State Treasurer out of moneys appropriated for the repair and improvement of such institution.

Section 13. It shall be the duty of the Commissioner of State Charitable Institutions to direct one of the traveling examiners, provided for in this act, to visit each institution under the control of this Department at least once during every three calendar months, and to make a thorough investigation into the financial condition of the institution, and thereupon prepare and send to the Commissioner a written statement relative thereto, including such recommendations as the condition seems to warrant.

Section 14. No warrant shall be issued by the Auditor General, and no money shall be paid by the State Treasurer, to the trustees

or managers of any State charitable institution except upon a voucher signed by the treasurer of said institution, and duly approved by the Commissioner of State Charitable Institutions.

Section 15. The sum of seventy-five thousand dollars ($75,000), or so much thereof as may be necessary, be and the same is hereby specifically appropriated for the purpose of paying the salaries and expenses provided herein, the same to be on warrant drawn by the Auditor General on the State Treasurer, out of moneys not otherwise appropriated by law.

Section 16. All acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 316, entitled "An act creating the Department of State Charitable Institutions; providing for the appointment of a Commissioner, who shall be the head thereof, defining his duties, fixing his compensation, designating the number and salaries of his assistants, and making an appropriation therefor."

The purpose of this bill is to create a Department of State Charitable Institutions, and the system elaborated in it would probably, if it became a law, be of benefit to the Commonwealth, and enable the Governor and the General Assembly to secure much important information concerning the condition of the institutions which the State either supports, or to which it makes appropriations. Unfortunately, there is no provision in the bill either for entrusting the work to the Board of Public Charities or for the repeal of the act creating that Board, and of the subsequent acts imposing duties upon it. Should the present bill become a law the Commonwealth would have a Department of State Charitable Institutions and a Board of Public Charities, both engaged in substantially the same work, and both exercising supervision and a certain control over the charitable institutions. This State of affairs would necessarily lead to expense, trouble and confusion. Each is required to make report to the Legislature, and in all probability, at times, their respective recommendations would be in conflict. The institutions are required to permit at all times an examination of their books and records, and a duplication of this visatorial authority would impose unnecessary burdens upon them. The expenses attendant upon both would have to be provided, and at the present session of the Assembly bills have been passed making appropriations to each of them. In addition, under the terms of the joint resolution, approved April 18, 1905, a commission was appointed "to make a full and complete investigation" into the condition of the various charitable institutions, and an appropriation has been made for the purpose. There would then be three different bodies authorized to make like inquiries. The report of the Commission, when made, may furnish important information and enable the General Assem-

bly at a subsequent session to create a Department of Charities, having all the light that can be thrown upon the subject.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.

No. 118.

AN ACT

Making an appropriation to the Consumptives Hospital, of the city of Scranton.

Section 1. Be it enacted, &c., That the sum of twelve thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Consumptives Hospital, carried on by the Scranton Society for the Prevention and Cure of Consumption, for maintenance, for the two fiscal years beginning June first, one thousand nine hundred and five.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 569, entitled "An act making an appropriation to the Consumptives Hospital, of the City of Scranton."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 119.

AN ACT

To make an appropriation to the United Charities, of Hazleton, Pennsylvania.

Section 1. Be it enacted, &c., That the sum of two thousand five hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated to the United Charities, of Hazleton, for the two fiscal years beginning June first, nineteen hundred and five, for the following purposes, namely:

The sum of one thousand five hundred dollars, or so much thereof as may be necessary, for maintenance; and the sum of one thousand dollars, or so much thereof as may be necessary, for improvements.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, Senate bill No. 600, entitled "An act to

make an appropriation to the United Charities, of Hazleton, Pennsylvania."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropriation at this time.

SAML. W. PENNYPACKER.

No. 120.

AN ACT

Making an appropriation to the Saint Joseph's Hospital and Dispensary, of Pittsburg.

Section 1. Be it enacted, &c., That the sum of five thousand dollars ($5,000), or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Saint Joseph's Hospital and Dispensary, of Pittsburg, for the two fiscal years beginning June first, one thousand nine hundred and five, for the purpose of maintenance.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objection, House bill No. 527, entitled "An act making an appropriation to the Saint Joseph's Hospital and Dispensary, of Pittsburg."

I withhold my approval from this bill, for the reason that the condition of the State revenue does not justify the appropropriation at this time.

SAML. W. PENNYPACKER.

No. 121.

AN ACT

Making an appropriation for suitable monuments, to be erected to the memory of Generals John F. Hartranft and Winfield Scott Hancock, at the borough of Norristown, Montgomery county, Pennsylvania; and providing for the appointment of Commissioners to supervise the erection thereof.

Section 1. Be it enacted, &c., That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to a Board of five Commissioners, to be appointed by the Governor, of whom at least two shall be residents of the borough of Norristown, which board shall cause the erection of suitable monuments to Generals John F. Hartranft and Winfield Scott Hancock, at such places within the said borough as they may deem suitable: Provided, That before any sums of money are contracted for the purposes as aforesaid, the borough of Norristown shall provide, free of all cost, a site or sites for the erection of the aforesaid monuments, within six months from the date of the

appointment of said commissioners, which site or sites shall first be approved as proper and suitable by the aforesaid Board of Commissioners.

Section 2. The appropriation herein provided for shall be paid on warrant of the Auditor General, upon settlement made by him and the State Treasurer, upon the Commissioners in charge of the erection of the monuments furnishing an itemized bill of the actual cost of said improvements.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 255, entitled "An act making an appropriation for suitable monuments, to be erected to the memory of Generals John F. Hartranft and Winfield Scott Hancock, at the borough of Norristown, Montgomery county, Pennsylvania, and providing for the appointment of commissioners to supervise the erection thereof."

The bill provides for the erection of suitable monuments at Norristown to commemorate the military services of Generals Winfield Scott Hancock and John F. Hartranft. The State has already erected to the memory of the latter an equestrian statue, on the Capitol grounds at Harrisburg. The State is also making considerable expenditure for the preservation of the camp ground at Valley Forge, with the purpose of maintaining it as a State park forever, and the Legislature has at the present session made an appropriation for the erection in this park of an equestrian statue to Anthony Wayne. The next expenditure of this character ought to be made in the western part of the State, to commemorate the victory of Henry Bouquet, at Bushy Run, or the Battle at Fort Necessity, both of which were of grave importance in the history of the world. Monuments to Hancock and Hartranft may well bide their time.

For these reasons, and because the appropriations have much exceeded the estimated revenues, the bill is not approved.

SAML. W. PENNYPACKER.

No. 122.

AN ACT

Making an appropriation for the erection of a suitable monument to the memory of Brevet Major-General John W. Geary.

Section 1. Be it enacted, &c., That the sum of nine thousand five hundred dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Board of Commissioners on Gettysburg Monuments, for the erection of a suitable monument to the memory of Brevet Major-General John W. Geary, Colonel Second Pennsylvania Infantry, in the war with Mexico; Colonel Twenty-eighth Pennsylvania Infantry, Briagdier-General and Brevet Major-General United States Volunteers, and Com-

mander of the Second Division, Twelfth Corps, Army of the Potomac, in the War of the Rebellion; Governor of the Commonwealth of Pennsylvania, one thousand eight hundred and sixty-seven, one one thousand eight hundred and seventy-three; at some appropriate place upon his battlefield line on the Gettysburg battlefield, to be chosen by said Commissioners.

Said appropriation to be paid on the warrant of the Auditor General, on a settlement made by him and the State Treasurer, upon the Commissioners on Gettysburg Monuments furnishing an itemized bill of the actual costs of said monument.

Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, Senate bill No. 223, entitled "An act making an appropriation for the erection of a suitable monument to the memory of Brevet Major-General John W. Geary."

For the reasons which are set forth in the message accompanying Senate bill No. 255, this bill is not approved.

SAML. W. PENNYPACKER.

No. 123.

AN ACT

Making an appropriation to the Institution of Protestant Deaconesses, of Allegheny county, Pennsylvania, for the use of Passavant's Hospital, of Pittsburgh.

Section 1. Be it enacted, &c., That the sum of forty-five ($45,000) thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated to the Institution of Protestant Deaconesses, of Allegheny county, Pennsylvania, for the use of Passavant's Hospital, of Pittsburgh, for the two fiscal years beginning June first, one thousand nine hundred and five, for the following purposes, namely:

For the purpose of maintenance, the sum of ten thousand dollars, or so much thereof as may be necessary; for the purpose of erecting a surgical annex to the hospital building, the sum of thirty-five thousand dollars, or so much thereof as may be necessary: Provided, That in consideration of this appropriation, there shall be maintained one free bed for each ten thousand dollars herein appropriated for the purpose of maintenance, which shall be filled upon the certificate of the mayor, or director of the department of public safety, or director of the department of charities, of the proper city, on presentation of such certificate to the officers of the hospital, in the order in which applications are made, after examination as to the propriety of such certificate being given: Provided, further, That the trustees of said hospital surrender their present charter, and take out a new charter under the act of Assembly approved April twenty-ninth, one thousand eight hundred and seventy-four, and its supplements, so that it will become a corporation of the first class under said act.

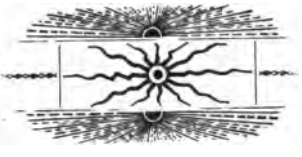
Commonwealth of Pennsylvania,
Executive Department,
Harrisburg, May 11, 1905.

I file herewith, in the office of the Secretary of the Commonwealth, with my objections, House bill No. 580, entitled "An act making an appropriation to the Institution of Protestant Deaconesses, of Allegheny county, Pennsylvania, for the use of Passavant's Hospital of Pittsburg."

For the reasons given in the message of May the 15th, 1903 (see vetoes, page 152), upon the bill "making an appropriation to the Passavant Hospital at Pittsburg," the present bill making an appropriation to this long established and most worthy institution is disapproved. There is an effort made in the bill to overcome the difficulties by the proviso, "That the trustees of said hospital surrender their present charter, and take out a new charter under the act of Assembly approved April twenty-ninth, one thousand eight hundred and seventy-four, and its supplements," but it is plain that an appropriation ought not to be made to an institution, now sectarian, upon the expectation that it will surrender its charter. Nor can it be made in any way clear that a new charter, so secured, would not contain the provisions of the old charter, or others to a like effect, in order to carry out the purposes of the corporation.

For these reasons the bill is not approved.

SAML. W. PENNYPACKER.



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